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1995

Illinois Register

Rules of Governmental Agencies

Volume 19, Issue 31— August 04, 1995

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 14, 1995 - Issue 15: Through	March 31, 1995
July 14, 1995 - Issue 28: Through	June 30, 1995
October 15, 1995 - Issue 37: Through	September 30, 1995
January 12, 1996 - Issue 2: Through	December 31, 1995 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1995

Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:	Material Rec'd after 12:00 p.m. on:	And before 12:00 p.m. on:	Will be in Issue #:	Published on:
Dec. 20, 1994	Dec. 27, 1994	1	Jan. 6, 1995	June 27, 1995	July 3, 1995	28	July 14, 1995
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May 23, 1995	May 30, 1995	23	June 9, 1995	Nov. 28, 1995	Dec. 5, 1995	50	Dec. 15, 1995
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June 20, 1995	June 27, 1995	27	July 7, 1995	Dec. 26, 1995	Jan. 2, 1996	2	Jan. 12, 1996

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Confidentiality of Personal Information of Persons Served by the Department

- 2) Code Citation: 89 Ill. Adm. Code 431

- 3) Section Numbers: Proposed Action:

431.15	Amend
431.20	Amend
431.30	Amend
431.40	Amend
431.50	Amend
431.60	New Section
431.70	Amend
431.80	New Section
431.90	Amend
431.100	Amend
431.110	Amend
431.120	Amend
431.130	Amend
431.140	Amend

- 4) Statutory Authority: Section 35.1 of the Children and Family Services Act [20 ILCS 505/35.1]; the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110); Section 11 and 11.1 of the Abused and Neglected Child Reporting Act (325 ILCS 5/11 and 11.1); the AIDS Confidentiality Act (410 ILCS 305); and the Protection and Advocacy for Mentally Ill Persons Act (405 ILCS 45).

- 5) A. Complete Description of the Subjects and Issues Involved: These rules are being amended to implement provisions of recent legislation which created Court Appointed Special Advocates (CASAs) and allow CASAs limited access to confidential information about children for whom the CASA is appointed as an advocate. The proposed amendments also include CASAs in the list of persons on whom the Department may complete a background check for evidence of prior incidents of child abuse/neglect.

Amendments also are proposed to recognize the authority of the Inspector General to impound records, pursuant to Public Act 89-7, when conducting an investigation or carrying out other official duties.

Amendments are also being proposed to allow the retention of unfounded reports, pursuant to Public Act 88-614, for a period of 12 months, 60 days, or 30 days based on the Priority Type of the report.

Finally, the rule has been reorganized to more clearly differentiate between a client or subject's access to their own record information and the Department's authority to share information with other professionals

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who are providing services to the client/subject, investigating reports of a similar nature, or otherwise performing their official duties as prescribed by law.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: These amendments do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jacqueline Nottingham, Chief
Office of Rules and Procedures
Department of Children and Family Services
406 E. Monroe St., Station #222
Springfield, IL 62701-1498
(217) 524-1983 or TTY: (217) 524-3715

- The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such. Persons who need translation or interpretation services to enable their commentary should request assistance by contacting the Office of Rules and Procedures.

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that these proposed amendments do not have an effect on small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: The Department published a regulatory agenda regarding the retention of unfounded reports of child abuse or neglect in the *Illinois Register* on January 19, 1995. No regulatory agenda was published on the other amendments because they were originally published on May 2, 1994, prior to the provision which required the publication of regulatory agendas. Because the proposed amendments filed on May 2, 1994 were not adopted within one year of the original proposal, the Department is refiling the amendments.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER I: GENERAL ADMINISTRATION

PART 431

CONFIDENTIALITY OF PERSONAL INFORMATION
 OF PERSONS SERVED BY THE DEPARTMENT

- 431.15 Purpose
 431.20 Definitions
 431.30 Maintenance of Records
 431.40 Required Consents ~~Consent~~ Prior to Disclosure of Personal Information
 431.50 Client Access to Records Which Contain Personal Information
 431.60 Subject Access to Records of Child Abuse and Neglect Investigations
 431.70 Denial of Requests to Access to Information
 431.80 Disclosure of Records of Child Abuse and Neglect Investigations
 431.90 Disclosure of Personal Information Without Consent
 431.100 Disclosure of Information of a Mental Health Nature
 431.110 Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)
 431.120 Removal of Records Prohibited
 431.130 Impoundment of Records by the Office of the Inspector General **Release**
of Personal Information for Research Purposes
 431.140 Applicability of This Part

AUTHORITY: Implementing Section 35.1 of the Children and Family Services Act [20 ILCS 505/35.1]; the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]; Section 11 and 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11 and 11.1]; the AIDS Confidentiality Act [410 ILCS 305]; and the Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45]; and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; and Section 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11.1].

SOURCE: Adopted and codified at 5 Ill. Reg. 7915, effective August 3, 1981; amended at 6 Ill. Reg. 15517, effective January 1, 1983; amended at 10 Ill. Reg. 21647, effective December 31, 1986; amended at 11 Ill. Reg. 12613, effective August 1, 1987; amended at 13 Ill. Reg. 2407, effective March 1, 1989; amended at 15 Ill. Reg. 24, effective December 31, 1990; recodified at 18 Ill. Reg. 7951; amended at 19 Ill. Reg. _____, effective _____.

Section 431.15 Purpose

The purpose of these rules is to specify:

- a) who has access to records which contain personal information about persons served by the Department or about the subjects of a child abuse or neglect report made to and investigated by the Department,

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- and who must consent to release ~~disclosure~~ of personal information, to whom the Department may disclose ~~who may receive~~ personal information without prior consent, ~~and~~
 c) under what conditions access to records will be granted or denied by the Department, and
 d) when the DCFS-Office of the Inspector General may impound the records of the Department, its foster parents or relative caregivers, service providers, or contractors.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.20 Definitions

"Children for whom the Department is legally responsible" means Children for whom the Department has temporary protective custody or custody or guardianship via court order, or children whose parent(s) have signed an adoptive surrender or voluntary placement agreement with the Department.

"Court appointed special advocate" means a person appointed by a court to protect the minor's best interests and insure the proper delivery of child welfare services.

"Disclose" and "permit access to" means to release, transfer, permit examination of, or otherwise communicate information orally, in writing, by electronic means or in any other manner.

"Impound" means to seize and retain in legal custody during the pendency of an investigation and any disciplinary, civil or criminal actions which result from an investigation conducted pursuant to the authority of the DCFS-Office of the Inspector General.

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that some credible evidence of the alleged abuse or neglect exists.

"Mental health information" means records, reports or other information about the provision of mental health or developmental disability services as defined in the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].

"Minor" means any individual who has not reached his 18th birthday.

"Person served by the Department" or "Client" means any person who receives services or applies for services from the Department through its various offices. The term includes children for whom the Department is legally responsible, persons who involuntarily are

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investigated by the Department concerning allegations of child abuse or neglect and who may receive Department services during the course of, or subsequent to, such an investigation, persons who are receiving Department services through an order of the court, and persons who voluntarily request services from the Department.

"Personal information" means any identifying information, excluding work products, which is a part of the permanent record and which describes, locates or indexes anything about an individual including, but not limited to, his education, financial transactions, medical history, criminal or employment records, registration or membership in an organization or activity, or admission to an institution. Personal information may be classified as mental health information, child abuse or neglect information, medical information, or other types of sensitive information and may be governed by different access, consent and disclosure requirements.

"Serious physical injury", for purposes of this Part, includes but is not limited to brain damage, skull fractures, subdural hematomas, internal injuries, wounds, third degree burns, multiple or spiral fractures, poisoning, physical injury when evidence indicates the child has been tortured.

"State Central Register" means the specialized Department unit which receives and transmits reports of alleged child abuse and neglect.

"Subject of a report" means any child reported to the child abuse/neglect State Central Register and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

"Work product", for the purposes of this Part, means a worker's notes which are not part of the permanent record, concerning interviewing technique, strategies for working with a person served by the Department and personal observations, which are kept for the worker's own personal use and are not disclosed to any other person except the worker's supervisor or attorney.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.30 Maintenance of Records

a) The Department, through its institutions, facilities and various

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offices shall maintain a record on all persons receiving services from the Department, either directly or through the purchase of services, and on all persons for whom a child abuse or neglect report has been indicated, unfounded, or for whom a decision about the report has not yet been made. Upon request from the subjects of the report, the Department may keep records of unfounded reports of child abuse or neglect to prevent future harassment of the subjects. Additionally, in accordance with Section 7.17 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.17] (11-1-Rev-Stat-1997-ch-23-par-257-77), the Department may maintain case records containing identifying information related to child abuse or neglect reports.

b) All identifying information about any indicated report held in the State Central Register or the local index shall be expunged no later than 5 years after the report was indicated unless a different retention period is specified in this Section. However, if a subsequent report involving any of the same subjects, or the siblings or offspring of the child subjects was indicated, identifying information about the subjects of all indicated reports shall be maintained in the State Central Register and the local index in accordance with the retention period specified in this Section.

c) All identifying information about any indicated report involving the death or sexual penetration of a child reported to the State Central Register or local index as of December 31, 1990 the effective date of this subsection shall be retained for fifty years.

d) All identifying information about any indicated report involving the sexual penetration of a child reported to the State Central Register as of the effective date of this subsection shall be retained for fifty years.

e) All identifying information about any indicated report involving the serious physical injury, sexual molestation or sexual exploitation of a child reported to the State Central Register as of December 31, 1990 the effective date of this subsection shall be retained for twenty years.

f) All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 12 months from the date the final finding report is entered into the State Central Register.

g) All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority Three in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 60 days from the date the final finding report is entered into the State Central Register.

h) All identifying information about any unfounded report made by a nonmandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or

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Neglect shall be retained in the State Central Register for 30 days from the date the final finding report is entered into the State Central Register.

b) All such records shall be of a confidential nature and shall not be made available to the general public.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.40 Required Consents Consent Prior to Disclosure of Personal Information

a) Except as allowed required in these rules, no personal information obtained concerning a person served by the Department or concerning the subjects of a child abuse or neglect report may be disclosed by the Department without the written consent of that individual, provided that individual has reached 18 years of age or, for mental health information and information regarding birth control services, pregnancy, treatment for sexually transmissible diseases or drug or alcohol abuse, the individual must be 12 years of age.

b) In the event that the personal information concerns a minor, the written consent of his parent, legal custodian or guardian must be obtained unless the rules in this Part specifically allow for a minor to consent to the release of the requested information.

c) In the event that the personal information concerns any record kept by a therapist or by an agency in the course of providing mental health or developmental disabilities services to a minor or an adult, consent for release must be obtained in conformity with Sections 804 and 805 of the Mental Health and Developmental Disabilities Confidentiality Act.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.50 Client Access to Records Which Contain Personal Information

a) Except as provided in this Section, persons served by the Department who have reached 12 years of age shall have full access to all records which contain their personal information, unless access is prohibited specifically by this Part. A parent whose parental rights have not been terminated or a guardian of the person of a minor shall have full access to the personal information contained in the records of said minor, unless access is prohibited specifically or otherwise restricted by this Part.

b) The Department shall provide access to records within ten working days after the receipt of the request, if practicable. In instances in which the material cannot be easily identified and assembled, the Department will provide the records within a reasonable time. Records

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shall be viewed in the Department field office, a purchase of service provider office or another location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. Individuals may convey the right to view their records by a written statement to an attorney or other person.

c) Every incidence of release of information to persons outside the Department shall be recorded in the case record.

a) Access to Records for Persons Served by the Department

1) Except as provided in this Section, each person served by the Department who has reached 12 years of age shall have full access to all records which contain his personal information, unless access is prohibited by this Part. A parent whose parental rights have not been terminated or a guardian of a minor shall have full access to the personal information contained in the records of that minor, unless access is prohibited by this Part.

2) The Department shall provide access to records within 10 working days of the receipt of the request, if practicable. In instances where the material cannot be easily identified and assembled, the Department will provide the records within a reasonable time. Records shall be viewed in the Department field office, a purchase of service provider office or another location which will not place an undue hardship on the individual. The Department may require that a representative of the Department be present when the records are viewed to interpret the contents of the records. An individual may convey the right to view his records by written statement to an attorney or other person.

3) Every incidence of release of information to persons outside the Department shall be recorded in the individual's case file showing dates and other circumstances related to the release.

b) Access to Records of Child Abuse and Neglect Reports

The following persons are allowed access to records of child abuse and neglect reports without the consent of the subjects of the report: other persons who wish access to these records must obtain written consent from the subjects of the report as provided in Section 431.7.

1) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or with whom the Department contracts for the provision of child welfare services.

2) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families.

3) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by the perpetrators of child abuse or neglect or whether employees or volunteers who

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responsibilities under this Act:

- 2) the operator of a licensed child-care facility or a facility licensed by the Department of Alcoholism and Substance Abuse in which children reside when a current or prospective employee of that facility has been named as a perpetrator in an indicated child abuse or neglect report.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.60 Subject Access to Records of Child Abuse and Neglect Investigations

a) Subjects, including minor subjects, of reports of suspected abuse or neglect which have been indicated or which are retained as evidence of false reporting are allowed access to the child abuse/neglect investigative record. However, no information will be released during the pendency of an investigation before the Department has determined whether the report is indicated or unfounded, except as allowed in Section 300.160 of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect or for purposes of a fair hearing requested prior to the final determination of indicated or unfounded. In addition, the identity or location of persons reporting or cooperating in such investigations shall not be provided to any subject, unless a subject appeals an indicated finding and an administrative law judge determines that the lack of such information would prejudice the appellant's case or violate due process of law principles. In addition, the Department may seek a court order prohibiting the release to the subjects of a report of any information deemed likely to be harmful to them. The circumstances under which the administrative law judge will be allowed to order the disclosure to the appellant of the names of reporters or other persons cooperating in the investigation include, but are not limited to, the following:

- 1) Testimony must have been offered by the appellant that the reporter or collateral witnesses demonstrated bias, motive, reason to fabricate or that the reporter or collateral witnesses have other information relevant to the testimony of the reporter or collateral witness.
- 2) The appellant must provide the administrative law judge in private with the names of the person(s) believed to be the reporter or collateral witness(es).
- 3) The individual presenting the Department's case at the hearing shall then disclose the identity of the person(s) to the administrative law judge in an in-camera setting.
- 4) If the reporter or collateral witness(es) is the same as the person(s) named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made. If the identity of the reporter is disclosed, a written

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notice shall be sent to the reporter advising of the disclosure of the reporter's identity.

- b) The guardian of the person or guardian ad litem of a child who is the subject of a report may have access to the investigative record, as limited in subsection (a) above.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 431.70 Denial of Requests to Access to Information

A person shall be denied access to the following material which may be considered personal information:

- a) Adoption Records
 - 1) The Department may deny a person his personal information in situations involving adoption when the information would allow that individual to determine the identity of his parents, siblings, or other relatives; or would allow the individual the opportunity to determine the whereabouts of a child which was voluntarily or involuntarily relinquished for adoption. The Director of the Department may release this information following an evaluation if in the Director's opinion releasing the information is in the best interests of all persons involved in the adoption of the child.
 - 2) Parents whose parental rights have been surrendered or legally terminated may indicate in writing whether they would allow their child to have access to their name(s) and information about them at some time in the future. This written statement shall be provided when the child is relinquished for adoption. When the parents have requested that their name(s) and information about them not be released to the child at a later date, their request shall be respected insofar as permissible by state or federal law or regulation. One significant federal law is the Indian Child Welfare Act. Under this law the parent shall be entitled to absolute anonymity in the case of voluntary relinquishment upon request.
 - 3) All requests shall be included both in the parents' and child(ren)'s child's records.
- b) Information Accepted under Promise of Confidentiality

Persons shall be denied access to information which will identify the source of any information obtained during a child abuse or neglect investigation (except as permitted in Section 431.60 above for purposes of conducting an administrative hearing), an adoptive investigation, a licensing investigation, or a study in preparation for a dispositional order under the Juvenile Court Act of 1987 if the information was given before or after the effective date of these rules under the express or implied promise that the identity of the information source would be held in confidence.

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c) Information to Locate a Child

An individual may be denied access to information which would allow that person ~~cause him~~ to determine the physical location of a child who ~~which~~ was removed from the individual's ~~his~~ custody in accordance with the Juvenile Court Act of 1987. This information shall be denied only if:

- 1) there is reasonable cause to believe that the child, foster parents or others caring for the child will be in danger if the child's whereabouts were known; or
- 2) the individual is likely to remove the child from the jurisdiction of the court.

d) Confidential Information About a Minor

The Department shall not release the following information without the consent of the minor:

- 1) information given to the Department by minors under the Department's assurance of confidentiality; and
- 2) information about a minor's consent to his or her ~~their~~ own or his or her children's medical care.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.80 Disclosure of Records of Child Abuse and Neglect Investigations

Record information about child abuse and neglect investigations may be shared with the following individuals without the consent of the subjects of the report:

- a) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or through whom the Department provides child welfare or day care services, and on court appointed special advocates, or for purposes of an investigation conducted by the DCFS-Office of the Inspector General under Section 35.5 of the Children and Family Services Act;
- b) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families;
- c) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by known perpetrators of child abuse or neglect or whether adult members of the household of a family home in which a child care facility operates, or employees or volunteers who work directly with children have been found to be the perpetrators of child abuse or neglect;
- d) Law enforcement officers investigating a report of suspected child abuse or neglect, known or suspected involvement with child pornography, known or suspected criminal sexual assault, known or suspected criminal sexual abuse, or any other sexual offense when

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children are alleged to be involved:

e) The Department of State Police when administering the provisions of the Intergovernmental Missing Child Recovery Act of 1984 [325 ILCS 401];

f) States' Attorneys who need access to child abuse or neglect information in the course of their assigned duties;

g) Physicians examining a child where abuse or neglect is suspected;

h) A court, upon its finding that access is necessary to determine an issue before the court. Unless the court determines that disclosure of the information in open court is necessary, such access is limited to an inspection by the judge in his chambers or in a courtroom free of spectators;

i) A grand jury which determines that access is necessary to conduct its official business;

j) Persons who have been authorized by the Director, in writing, to review the records for audit or research purposes or to review such records in the regular course of the Department's business. Such access shall be time limited or limited to specific staff functions;

k) Persons authorized to take temporary protective custody only if the information is needed to determine whether to take the child into temporary protective custody;

l) A person who has legal responsibility or authorization to care for, treat, or supervise a child or a parent, guardian, or other person responsible for the welfare of a child who is the subject of a report;

m) Law enforcement officers, coroners or medical examiners, physicians, courts, school superintendents and child welfare agencies in other states who are responsible for child abuse or neglect investigations or background investigations. Such information shall be requested only for the purpose of aiding the investigation, assessment or service provision or background investigation in the requesting state.

n) The Illinois Department of Professional Regulation, when determining whether a mandated reporter who failed to report child abuse or neglect should be subject to license suspension or revocation, or when determining whether to refuse to issue, suspend or revoke the license of the following classes of persons due to the person having been named a perpetrator in an indicated report of child abuse or neglect:

- 1) Physicians,
- 2) Physicians' Assistants,
- 3) Dentists,
- 4) Registered and practical nurses,
- 5) Optometrists,
- 6) Physical Therapists,
- 7) Podiatrists,
- 8) Psychologists,
- 9) Social Workers, or
- 10) Athletic Trainers;

o) School superintendents and the State Board of Education when determining whether a teacher's certificate shall be suspended because

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the teacher has been named as a perpetrator in an indicated report of child abuse or neglect:

- p) A coroner or medical examiner who has reason to believe that a child has died as the result of abuse or neglect;
- q) The Director of a State-operated facility when an employee of that facility has been named as a perpetrator of an indicated report;
- r) Members of a multidisciplinary team in the furtherance of its responsibilities under this Act; or
- s) The operator of a licensed child care facility or a facility licensed by the Department of Alcoholism and Substance Abuse in which children reside when a current or prospective employee of that facility has been named as a perpetrator in an indicated child abuse or neglect report.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 431.90 Disclosure of Personal Information Without Consent

- a) Persons Who May Receive Personal Information Without Consent
The Department shall disclose personal information to the following persons or category of persons without the consent of the individual in accordance with the provisions of the Children and Family Services Act (20 ILCS 505): Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110), the AIDS Confidentiality Act (410 ILCS 305), or the Abused and Neglected Child Reporting Act (325 ILCS 51), as applicable to the type of information being requested:

- 1) Law Enforcement Officers
 - A) Department child welfare staff, with approval of the immediate supervisor, shall release personal information to State's Attorneys, the Attorney General, municipal and sheriff's police (in Illinois or other jurisdictions), and the Department of State Police, when releasing the information is consistent with the best interests of the child child's safety-and-well-being or when the information is relevant to a pending investigation.
 - B) If personal information is requested by law enforcement officers other than listed in subsection (A), or if the information requested is not consistent with best interests the safety-and-well-being of the child or family served by the Department, the information may be released only by the Director of the Department or his designee.
- 2) Persons Who Have Subpoenas or Other Court Orders
 - A) The Department shall disclose personal information when ordered to do so by a court order. The Department shall make a good faith effort to notify the person whose records are the subject of the order that the order exists and the nature of the proceedings, unless specifically ordered by

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the court to not contact the subjects. The Department shall notify the court or the person obtaining the court order of the confidential nature of the information and its policies regarding personal information. In addition, the Department may take any appropriate legal actions to limit or quash the court order.

- B) In the event that a subpoena has been issued by a court, the Department shall make a good faith effort to contact the subject of the order as explained in the subsection above. If a subpoena is issued by a Clerk of the Court without any judicial involvement, the Department shall notify the person who had the subpoena issued of its policies regarding personal information and shall make a good faith effort to promptly notify the person whose information is the subject of the subpoena. The Department shall not release the information for 14 days following the receipt of the subpoena unless the person consents to the release of the records or an earlier, reasonable return date is provided in the subpoena. After 14 days have passed from the receipt of the subpoena, the Department shall release the information if releasing it is consistent with the best interests of the child child's safety-and-well-being.

- C) When a person served by the Department is engaged in litigation against the Department, the Department shall release personal information concerning that individual or his children which is subject to discovery under the laws of the State of Illinois to him or his attorney.

3) Legislators

Only the Director of the Department shall authorize the release of the contents of case records to the Illinois legislature or committees or commissions thereof. Individual legislators shall not have access to case records unless they are acting under the authority given them by the law.

4) Professionals or Other Service Providers

Persons receiving services from the Department or its contractual agencies are to be informed that personal information (other than mental health information) may be shared without their consent with other service providers when it is necessary for the proper provision of services or the establishment of paternity or support for a dependent minor.

- A) With the exception of mental health records, as provided for in Section 431.100 431-7, personal information may be released by any Department employees employee acting within their official capacity to the agency designated by the Governor for administering the protection-and-advocacy system for mentally ill persons in accordance with the provisions of 40 AN Act for the protection-and-advocacy of mentally ill persons (431 Rev. 1987, ch. 91-172

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~~per---135t--et--seq--77--and to psychiatrists, psychologists, physicians, doctors, social workers, other---employees, volunteers, homemakers, contractors with the Department, social service agencies, foster parents, child care facilities and others providing services to persons served by the Department when such information is necessary for the proper administration of the programs of the Department--or the proper delivery of services to the persons served by the Department.~~

- B) The Department, in releasing personal information, will limit the information released to that which is necessary to properly provide the service. The person(s) receiving the information shall be notified by the Department that the information is confidential and that the information is not to be further released except as is necessary for the proper delivery of service.
- C) Release of mental health materials must be made in conformity with the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110].
- D) Department employees may release personal information needed to establish paternity or support for a dependent child or relative.

5) Court Appointed Special Advocates

Court appointed special advocates may attend the child's portion of administrative case reviews involving children for whom they are appointed as advocates and may review documents directly related to delivery of child welfare services which are in the best interests of such minor. However, court appointed special advocates are not allowed access to mental health or drug or alcohol assessment and treatment records, confidential medical records, or records of child abuse or neglect reports and investigations and may attend the parent's portion of the administrative case review only with the permission of the parents or their authorized representative.

6) Research purposes

The release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director of the Department or designee upon express written consent. The researcher shall ensure, in writing, the confidentiality of identifying information. The researcher shall not release any identifying information without the express written permission of the Director.

7) DCF's Office of the Inspector General

Personal information shall be released to the DCF's Office of the Inspector General when the records are pertinent to an investigation authorized under Section 35.5 of the Children and Family Services Act [20 ILCS 505/35.5] and involves allegations or incidents of possible misconduct, misfeasance, malfeasance, or

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violations of rules, procedures, or laws.

- 8) Protection and Advocacy for Mentally Ill Persons
Personal information, with the exception of mental health information, may be released to the agency designated by the Governor for administering the protection and advocacy system for mentally ill persons, in accordance with the provisions of the Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45].

3)5) Others Not Cited Above

Personal information may be released for the purposes and to persons other than those listed in these rules upon the written authorization of the Director when such authorization is not prohibited by state or federal law or regulation or rule.

- b) Responses to Requests for Information

1) Written Requests

A) The Department shall accept written requests for the disclosure of personal information without the consent of the concerned individuals only when the requestor has provided a notary public's attestation as to his identity and has included the names of the individuals about whom the information is requested. Information shall only be released in compliance with this Part.

B) The Department will provide a written response to each written request via certified mail deliverable only to the requestor.

2) Telephone Requests

A) The Department shall accept telephone requests for child abuse and neglect information only when the request comes from Department staff investigating a report of child abuse or neglect, law enforcement officials investigating a report of child abuse or neglect or determining whether a child should be taken into temporary child protective custody, physicians examining a child and the information is needed to determine whether a child is abused or neglected or to determine whether a child should be taken into temporary protective custody, and out-of-state agencies involved in a child abuse or neglect report.

B) The Department shall accept telephone requests for other personal information without the consent of the concerned individuals only if the requesting person or agency is authorized by the rules in this Part to receive the information which they are requesting.

C) The Department shall not provide information to unknown requestors at the time of the initial inquiry. Instead, Department staff shall obtain the requestor's name, type of business, an official business phone number through which his identity and authority to receive the information can be verified, and the phone number at his current location. The

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Department shall verify the requestor's identity and authority to receive the information by checking an official telephone listing or checking with a third party at the business office.

3) In-Person Requests

- A) The Department shall accept in-person requests for the disclosure of personal information without the consent of the concerned individuals only when the requestors produce positive identification and proof of their legal authority to receive the requested information.
- B) The Department will recognize only those guardians, custodians, court appointed special advocates or guardians ad litem who produce a court order appointing them to their positions. The Department will recognize only those attorneys or personal representatives who produce a written consent to release the requested information. The consent must be signed by the concerned individual and it must be notarized.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.100 Disclosure of Information of a Mental Health Nature

Release of and access to clinical, social work, psychological, psychiatric or other information of a mental health nature shall be governed by Section 2 of the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110/2]. Significant portions of that Act are as follows:

- a) The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof:
 - 1) the parent or guardian of a recipient who is under 12 years of age;
 - 2) the recipient if he is 12 years of age or older;
 - 3) ~~another person on such recipient's behalf if the recipient so authorizes in writing~~
 - 3) ~~the parent or guardian of a recipient who is at least 12 but under 18 years, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying such access. The parent or guardian who is denied access by either the recipient or the therapist may petition a court for access to the record;~~
 - 4) ~~the guardian of a recipient who is 18 years or older;~~
 - 5) ~~an attorney or guardian ad litem who represents a minor 12 years of age or older in any judicial or administrative proceeding, provided that the court or administrative hearing officer has entered an order granting the attorney this right.~~
- b) Except as otherwise provided in the Mental Health and Developmental Disabilities Confidentiality (MH/DD) Act [740 ILCS 110], records and

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communications as defined in that Act (Ill. Rev. Stat., 1997, ch. 91-1/27, par. 002) may be disclosed only with the written consent of the persons identified in subsection (a) above.

- 1) ~~the parent or guardian of a recipient who is under 12 years;~~
- 2) ~~both the parent or guardian of a recipient who is at least 12 but under 18 years and the recipient; if only the recipient refuses to consent there shall be no disclosure unless the therapist finds that such disclosure is in the best interests of such recipient; if the parent or guardian refuses to consent, disclosure shall not be made except to an attorney appointed to represent the minor recipient or requested by the minor recipient in writing to represent him or her;~~
- 3) ~~the recipient if he is 18 years or older or his guardian if he has been adjudicated incompetent.~~

- c) Information disclosed with the written consent of those described in subsection (a) subsections (b)(1) through (3) above may not be redisclosed to any other person without the express written consent of those described in subsection (a) above subsections (b)(1) through (3). Those persons authorized to give consent may revoke their consent at any time.

- d) Where the Department has legal guardianship of a child under 12 years, the Department may deny access of the biological ~~natural~~ parents to information pertaining to the child's mental health only if two (2) professional social workers (Master of Social Work degree) employed by the Department certify in writing that denial of such access is in the best interests ~~interest~~ of the child and/or parents.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.110 Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)

- a) The Department shall be informed of the results of Human Immunodeficiency Virus (HIV) tests performed on and of all diagnoses of AIDS Related-Complex (ARC) or Acquired Immunodeficiency Syndrome (AIDS), as defined in Public Health rules, 77 Ill. Adm. Code 697, (AIDS Confidentiality and Testing Code), for children for whom the Department is legally responsible.
- b) The Department shall release information on children for whom it is legally responsible regarding HIV test results, diagnoses of ARC or AIDS to the child's legal parents and to persons who have the need to know such information. The categories of persons who have a need to know this information about a child are as follows:
 - 1) those persons who supervise or provide direct care to the child such as:
 - A) foster parents,
 - B) relative caretakers,

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C) directors or operators of child care facilities, such as group homes, child care institutions, child welfare agencies, state operated facilities, day care homes, day care centers and the personnel of such facilities:

- i) who provide direct care for a child by feeding, diapering, or handling blood or bodily fluids; or
- ii) who provide direct care to a child who bites, spits, has a bleeding problem such as nose bleeds or hemophilia or who cannot control normal bodily functions;
- 2) physicians, nurses, dentists and other medical providers who will be providing direct care to the child;
- 3) other persons who provide direct care for a child for whom the information is necessary in order to provide Department approved services for the child, i.e., advocates and counselors; or
- 4) prospective adoptive parents who have been licensed under 89 Ill. Adm. Code 402, who are willing to adopt a child with a terminal illness, and who have demonstrated an interest in a specific child who has tested positive for HIV infection or who has been diagnosed with ARC or AIDS.

c) Persons to whom the Department has released information regarding HIV test results, diagnoses of ARC or AIDS, shall keep this information confidential in accordance with the provisions of the AIDS Confidentiality Act [410 ILCS 305] (~~411-Rev-Stat-1987-ch-111-1/2 par-7907-et-seq~~) and the AIDS Confidentiality and Testing Code (77 Ill. Adm. Code 697). Such information shall not be disclosed to other persons except as authorized by the Department in accordance with subsection (b). Such authorization shall be signed by the Department's Guardianship Administrator or designee as defined by 89 Ill. Adm. Code 327.2 and shall contain the names and respective positions of those individuals to whom the information will be disclosed.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.120 Removal of Records Prohibited

Records of the Department may not be removed from Departmental facilities by non-Departmental staff, except as provided in Section 431.130, but may be photocopied. The Department may charge for the cost of reproducing said records at the rate established in 2 Ill. Adm. Code 775, Public Information, Rulemaking, and Organization.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.130 Impoundment of Records by the Office of the Inspector General

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Release-of-Personal-Information-for-Research-Purposes

a) The Office of the Inspector General of the Department, pursuant to Public Act 88-7, may impound records, files, documents and papers from any Department office, facility, foster home or facility or program operated for or licensed by the Department which are pertinent to an investigation authorized under Section 35.5 of the Children and Family Services Act [20 ILCS 505/35.5].

b) During business hours an Office of the Inspector General investigator may impound records pertinent to an investigation of allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of rules, procedures, or laws by means of an unannounced visit to the facility, home or program. If it is necessary to impound records after business hours, the investigator may access a Department facility, home or program by contacting the Department administrator designated by the Director. If the investigator must gain access to a private agency facility, home or program, the investigator may do so by contacting the private agency administrator responsible for the facility, home or program.

c) If records are sought from a foster home, the Office of the Inspector General investigator shall seek the consent of and voluntary disclosure by the foster parent prior to impounding any records from the home. All consents shall be in writing.

d) The Office of Inspector General investigator will impound the original of any record, file, document or paper necessary for the investigation. The office, facility, foster home, or program may make photocopies of the original file in the presence of the investigator for purposes of creating a working file that remains at the office, facility, foster home, or program during the pendency of the investigation. The private agency director or DCFS office or facility administrator or their designees shall ensure that the impounded file contains all relevant documents in existence at the time of impoundment. Any original documents received or created after impoundment of the record will be maintained in a designated folder marked "Original". The working file shall be kept separate from the original file.

e) The investigator will return all impounded documents upon completion of the investigation or any subsequent proceedings resulting from the investigation, but may retain copies of the documents for the investigative file. Copies of impounded documents pertinent to the findings of the investigation will be retained for a minimum of ten years.

f) All evidence or files should be impounded and maintained in a manner to preserve evidence for possible criminal and quasi-criminal prosecutions with respect to both the subjects of Office of Inspector General investigations and the subjects of the original Department investigations.

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~~the release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director of the Department or designee upon express written consent of the researcher shall ensure in writing of the confidentiality of individually identifying information. The researcher shall not release any identifying information without the express written permission of the Director.~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 431.140 Applicability of This Part

This Part shall apply to personal information contained in all closed, active and future records of the Department, regardless of whether they are maintained in written, microfilm, or electronic storage.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Rules of Practice
- 2) Code Citation: 83 Ill. Adm. Code 200
- 3) Section Numbers: Proposed Action:
- | | |
|---------|-------------|
| 200.60 | Amendment |
| 200.70 | Amendment |
| 200.150 | Amendment |
| 200.190 | Amendment |
| 200.200 | Amendment |
| 200.220 | New Section |
| 200.300 | Amendment |
| 200.310 | New Section |
| 200.335 | Amendment |
| 200.370 | Amendment |
| 200.410 | Amendment |
| 200.520 | Amendment |
| 200.525 | New Section |
| 200.530 | Amendment |
| 200.605 | New Section |
| 200.615 | New Section |
| 200.640 | Amendment |
| 200.800 | Amendment |
| 200.820 | Amendment |
| 200.830 | Amendment |
| 200.850 | Amendment |
| 200.880 | Amendment |
| 200.890 | Amendment |

- 4) Statutory Authority: Implementing and authorized by Section 10-101 of the Public Utilities Act (220 ILCS 5/10-101), Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], and Section 10 of the Electric Supplier Act (220 ILCS 30/10).

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will revise the Commission's rules of practice in line with recommendations from a Commission-appointed task force consisting of representatives of the Commission staff, utilities, consumer groups, industrial utility customers, and government. The topics covered include filing requirements, service requirements, pre-hearing and hearing procedures, and post-hearing procedures.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Comments should be filed with:

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62706
(217)782-7434

Comments should be filed with the Chief Clerk within 45 days of the date of this issue of the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These proposed amendments will affect those small businesses, small municipalities, and not for profit corporations that practice before the Commission.

B) Reporting, bookkeeping or other procedures required for compliance:
Filing procedures.

C) Types of professional skills necessary for compliance: Managerial and legal.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITY

PART 200
RULES OF PRACTICE

SUBPART A: GENERAL PROVISIONS

Section	
200.10	Procedure Governed
200.20	Construction of This Part
200.25	Standards for Discretion
200.30	Deviation from This Part
200.40	Definitions
200.50	Office
200.60	Open Meetings
200.70	Communications to the Commission
200.80	Computation of Time
200.90	Appearances
200.95	Class Actions Prohibited

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

Section	
200.100	Contents of Pleadings
200.110	Forms of Pleadings and Documents
200.120	Copies of Pleadings
200.130	Signature and Verification
200.140	Amendments
200.150	Service
200.160	Informal Complaints
200.170	Formal Complaints
200.180	Answers
200.190	Motions
200.200	Intervention
200.210	Petition for Rulemaking
200.220	Declaratory Rulings

SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

Section	
200.300	Prehearing Conferences
200.310	Other Prehearing Submissions
200.320	Facts Disclosed Privileged
200.330	Recordation and Order
200.335	Application of Discovery Rules Contained in Sections 200.340 through

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- 200.800 Briefs
- 200.810 Draft Orders
- 200.820 Hearing Examiner's Recommendation or Proposed Order
- 200.830 Exceptions; Reply
- 200.840 Filing of Briefs
- 200.850 Oral Argument
- 200.860 Commission Order
- 200.870 Additional Hearings
- 200.875 Post-Record Data
- 200.880 Rehearing
- 200.890 Appeals
- 200.900 Reopening on Motion of the Commission

AUTHORITY: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101], Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1202], Section 18a-200 of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/18a-200], and Section 10 of the Electric Supplier Act [220 ILCS 30/10].

SOURCE: Filed and effective January 15, 1960; codified at 8 Ill. Reg. 18459; old rules repealed and new Part adopted at 9 Ill. Reg. 5627, effective April 15, 1985; emergency amendments at 10 Ill. Reg. 1277, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 10481, effective May 30, 1986; amended at 18 Ill. Reg. 7748, effective May 15, 1994; amended at _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 200.60 Open Meetings

- a) The Commission shall comply with the provisions of the Open Meetings Act [5 ILCS 120] (~~Ill. Rev. Stat., 1983, ch. 102, par. 41 et seq.~~).
- b) Emergency meetings may be called by the Chairman or a majority of the Commission. Nothing in this Part shall prohibit the Commission from conducting meetings partially or wholly by means of telecommunications.
- c) The agenda for each regular meeting shall be posted at the Commission's principal office in Springfield, in an area easily accessible to the public, at the earliest practicable date but in no event less than 48 hours prior to the scheduled meeting. Whenever practicable, similar posting of the agenda shall be made in the Commission's offices in Chicago. A supplemental agenda of matters added subsequent to the initial agenda shall be posted when practicable. Agendas for regular meetings are for information only. Inclusion of an item on the agenda shall not require the Commission to consider it, and absence of an item from the agenda shall not preclude the Commission from considering or acting upon it. Notices and agendas may be obtained from the Chief Clerk's office in Springfield

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- 200.430 Policy on Discovery
- 200.340 Discovery by Staff Witnesses
- 200.345 Reasonable Attempts to Resolve Differences Required
- 200.350 Depositions and Other Discovery Procedures
- 200.370 Supervision of Discovery
- 200.380 Subpoenas
- 200.390 Motion to Quash Subpoena
- 200.400 Service and Fees Payable
- 200.410 Time Limits on Discovery
- 200.420 Failure to Comply With a Discovery Order or a Subpoena
- 200.430 Protective Orders

SUBPART D: HEARING PROCEDURE

- Section
- 200.500 Authority of Hearing Examiner
- 200.505 Recessing Hearing For Conference or Discussion
- 200.510 Disqualification of Hearing Examiner
- 200.520 Interlocutory Review of Hearing Examiner's Ruling
- 200.525 Paper Hearings
- 200.530 Notice, Time and Place of Hearings
- 200.540 Recording Appearances at Hearings
- 200.550 Failure to Appear or to Exercise Diligence in Proceeding
- 200.560 Continuances
- 200.570 Order of Procedure and Receiving Evidence
- 200.580 Transcripts
- 200.590 Conduct at Hearings
- 200.600 Consolidation and Severance
- 200.605 Procedure for the Identification and Treatment in Hearings of Confidential or Proprietary Information or a Trade Secret
- 200.610 Evidence
- 200.615 Waiver of Cross-examination
- 200.620 Testimony to be Under Oath or Affirmation
- 200.625 Examination of Adverse Party or Agent
- 200.630 Stipulation of Facts
- 200.640 Administrative Notice
- 200.650 Records of Other Proceedings
- 200.660 Prepared Testimony
- 200.670 Exhibits
- 200.680 Objections
- 200.690 Offer of Proof
- 200.700 Record in Commission Proceedings
- 200.710 Ex Parte Communications

SUBPART E: POST-HEARING PROCEDURE

Section

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and Chicago.

- d) Participation in meetings is limited to Commissioners, Hearing Examiners, and Commission staff other than staff witnesses. Others may participate in Commission meetings on invitation of the Commission except where precluded by Section 200.710. The Commission shall take those actions necessary to permit its deliberations to be conducted in an orderly manner.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.70 Communications to the Commission

- a) All formal written communications and documents to be filed with or submitted to the Commission shall be addressed to: The Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois 62706. Petitions, complaints and other filings that initiate a proceeding or petitions for interlocutory review shall be Att-formal communications-and-documents-are deemed to be officially filed or submitted only when received delivered at the principal office of the Commission. The Chief Clerk is the official custodian of all Commission records. Unless the Public Utilities Act or other applicable statute specifically provides otherwise, or the Hearing Examiner specifically provides otherwise in the interest of a fair hearing, all formal written communications and documents shall be deemed officially filed or submitted either when received at the principal office of the Commission or:

- 1) if transmitted through the United States mail, shall be deemed filed with or received by the Commission on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper containing it;
- 2) if mailed but not received by the Commission or if received but without a cancellation mark or with the cancellation mark illegible or erroneous, shall be deemed filed with or received by the Commission on the date it was mailed, but only if the sender establishes by competent evidence that the writing was deposited, properly addressed, in the United States mail on or before the date on which it was required or authorized to be filed. In cases in which the writing was mailed but not received, the sender must also file with the Commission a duplicate writing, within 10 days after notification is given to the person claiming to have sent the writing, of nonreceipt of the writing;
- 3) if a writing is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the writing was mailed. The date of registration, certification or certificate shall be deemed the postmarked date.

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- b) In an emergency, upon affidavit specifying the emergency and affirming that no person will be prejudiced, the Chief Clerk or his/her designated representative shall authorize filing in the Chicago office of the Commission.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART B: FORM, FILING AND SERVICE OF PLEADINGS

Section 200.150 Service

- a) Formal complaints will be served by the Commission only.
- b) Petitions, applications, answers, intervening petitions, supplemental complaints and petitions, amendments to pleadings, written motions, responses, replies, notices, suggested findings of fact and conclusions of law, exceptions to Hearing Examiners' proposed orders, briefs, drafts or suggested forms of order, applications for further hearing, petitions for rehearing, and similar documents shall be filed with the Chief Clerk of the Commission and shall be served by the person filing same upon all parties to the proceeding and upon staff witnesses and the Hearing Examiner, if any, and, when filed, shall be accompanied by proof of service upon all parties. In addition, any person filing a petition under Section 8-406 of the Public Utilities Act [220 ILCS 5/8-406] ffff-Rev-Stat--1985--ch--111-273--par--8-406 for a certificate of public convenience and necessity to serve as a water or sewer public utility shall serve a copy of the petition on each municipality which is located partly or wholly within the area proposed to be certificated, or whose corporate boundary lies within 1 1/2 miles of such area.
- c) Except as otherwise provided in this Subpart or by the Commission or the Hearing Examiner, service Service shall be made by delivering in person or by depositing in the United States mail, properly addressed with first class postage prepaid, or by depositing with a private express courier service, properly addressed with charges prepaid or payment arrangements made, one copy to each person entitled thereto. Service by mail is effective upon mailing; service by overnight courier is effective upon delivery to the courier service. Service of petitions for interlocutory review shall be effective upon receipt by the party served. When staff witnesses or any party or parties have appeared by an attorney, service upon the attorney shall be deemed service upon such persons. Notices under the ICTL shall be served as provided in Sections 18c-1801 and 18c-1802 of that statute [225 ILCS 5/18c-1801 and 18c-1802] ffff-Rev-Stat--1985--ch--95-172-par--18c-1801-and-18c-1802. Service is effective on a public utility telecommunications carrier, carrier under the ICTL or other entity regulated by the Commission, if mailed to the last address on file with the Commission. Except as otherwise provided by the Commission

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or the Hearing Examiner, whenever staff or a party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon staff or the party, and the notice or other document is served upon staff or the party by mail, four days shall be added to the prescribed period.

- d) Proof of service of any paper shall be by certificate of attorney, acknowledgement of receipt, or affidavit, except that proof of service on the Commission is made pursuant to Section 200.70.
- e) In any proceeding involving more than four parties, the Chief Clerk shall prepare and disseminate to all parties a service list showing the name and address of each person entitled to service. Parties shall be required to update their service lists to insure the inclusion of all parties during the course of the proceeding. Updated service lists may be obtained from the Chief Clerk's office.
- f) In any application, petition, or complaint that initiates a "Contested Case" or a "Licensing Proceeding" as defined in Section 200.40, the applicant, petitioner or complainant shall provide, at the time of filing a petition, application or complaint, notice in a form prescribed by the Commission. The notice shall provide:

- 1) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- 2) A reference to the section of the statute or rule involved;
- 3) A plain and concise statement of the matters asserted; and
- 4) A space for the time and location of a hearing scheduled in the proceeding- [5 ILCS 100/10-25(a)]: ~~§§11-Rev-Stat-1985-CH-127-PAR-101(a)77~~
- 5) A copy of the complaint, in proceedings initiated under Section 10-108 of the Public Utilities Act [220 ILCS 5/10-108]: ~~§§11-Rev-Stat-1985-CH-11-273-PAR-10-1007~~.

- g) The Commission shall serve the notice provided by subsection (f) by personal delivery or registered or certified mail. Notice of any additional hearings or other notices mailed by the Commission shall be by regular United States mail or as otherwise provided by the Hearing Examiner.

- h) A person filing an application under Section 8-406 of the Public Utilities Act, as amended, for a Certificate of Public Convenience and Necessity to construct facilities upon or across privately owned tracts of land, or filing under Section 8-503 of that Act [220 ILCS 5/8-503] ~~§§11-Rev-Stat-1985-CH-11-273-PAR-8-5037~~, shall attach to such application when filed with the Commission a list containing the name and address of each owner of record of such land as disclosed by the records of the tax collector of the county wherein such land is located, as of not more than thirty (30) days prior to the filing of such application. The Commission shall notify such owners of record of the time and place scheduled for the initial hearing upon such application. The foregoing provisions for notice to owners of record shall not be deemed jurisdictional and the omission of the name and address of an owner of record from such list or lack of notice shall

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in no way invalidate a subsequent order of the Commission relating to said application.

- i) Where a person files an application under Section 8-503 or 8-406 of the Public Utilities Act, the requirements of Section 200.150(h) above shall apply only if such application requests a certificate of authority to construct particular facilities at specified locations and shall apply only with respect to such construction.
- j) Where a person files an application under both Section 8-406 of the Public Utilities Act and under the Gas Storage Act [220 ILCS 15] ~~§§11-Rev-Stat-1985-CH-96-172-PAR-5501-ET-SEQ77~~, the utility's compliance with the notice requirements of the Gas Storage Act will be deemed to be in compliance with the requirements set forth in Section 200.150(h) above.
- k) Persons filing applications under the ICTL which are subject to the service and notice requirements of Section 18c-4201 of that law [625 ILCS 5/18c-4201] ~~§§11-Rev-Stat-1985-CH-95-172-PAR-18c-42017~~ shall comply with the requirements of that Section and the rules of the Commission issued thereunder.
- l) Persons filing applications under the Illinois Commercial Relocation of Trespassing Vehicles Law who are subject to the service and notice requirements of Section 18a-400(c) of that law [625 ILCS 5/18a-400(c)] ~~§§11-Rev-Stat-1985-CH-95-172-PAR-18a-400(c)77~~ shall comply with the requirements of that Section and the rules of the Commission issued thereunder.
- m) Persons subject to the Electric Supplier Act [220 ILCS 30] ~~§§11-Rev-Stat-1985-CH-11-273-PAR-401-ET-SEQ77~~ shall comply with any and all service and notice requirements under that Act.
- n) The Commission or the Hearing Examiner may require notice in addition to that set forth in this Section.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.190 Motions

- a) Motions may be presented requesting a more sufficient pleading, a bill of particulars, the striking of irrelevant, immaterial, scurrilous or unethical matter, the addition of necessary parties, the dismissal of the proceeding for want of jurisdiction or want of prosecution, the quashing of a subpoena, the postponement of an effective date of an order, the extension of time for compliance with an order or such other relief or order as may be appropriate.

- b) Motions may be presented requesting the Hearing Examiner's direction concerning prehearing submissions and procedures as provided in Section 200.310.

c) Motions, unless made during a hearing, shall be made in writing, shall set forth the relief or order sought and shall be filed and served as provided in Section 200.150(b), (c), and (d) of this Part.

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Motions based on matter which does not appear of record shall be supported by affidavit.

d) Relief pending disposition of a proceeding, including interim relief, may be requested by motion.

e) Upon receipt of a written motion, a Hearing Examiner shall set a schedule for the filing of responses and for the proponent of the motion to reply to any response filed.

f) Unless otherwise specified by the Hearing Examiner, responses to motions shall be filed and served within 14 days after service after the motion and replies to responses shall be filed and served within 7 days after service after the responses.

g) When the Commission grants a contested motion to dismiss a proceeding, in whole or in part, the Commission shall issue an order presenting its rationale for the grant.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.200 Intervention

a) Petitions to intervene shall contain:

1) The name, address and telephone number of the petitioner seeking leave to intervene;

2) A plain and concise statement of the nature of such petitioner's interest;

3) A prayer for leave to intervene and be treated as a party to the proceeding; and

4) If affirmative relief is sought, specific prayers for such relief, which may be in the alternative.

b) While a petition for leave to intervene is pending, the Hearing Examiner, in his or her discretion, may permit the petitioner to participate in the proceeding.

c) Petitions to intervene shall be granted or denied by the Hearing Examiner, subject to Section 200.520.

d) In order to promote efficiency, the Hearing Examiner may require parties to state whether they will be active or not active in the proceeding. If a party fails to respond in the manner designated by the Hearing Examiner within 14 days, the party shall be deemed to be a non-active party. Active parties shall not be required to serve non-active parties with copies of testimony, data requests, pleadings and briefs. However, non-active parties shall be entitled to receive notices and orders served by the Commission. A party may change its designation at any time in the proceeding by filing a notice with the Chief Clerk and serving all parties. If a non-active party has changed its status to active, upon receipt of the notice from the party, all other active parties shall serve that party with all subsequently filed testimony, pleadings and briefs. A party's change in status shall not serve as the basis for delay or a modification of

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the procedural schedule in the case.

e) Except for good cause shown, an intervenor shall accept the status of the record as the same exists at the time of the beginning of that person's intervention. Subject to Section 200.850, any intervenor shall be allowed to comment in briefs and oral arguments on any matter addressed in the proceeding, whether before or after his intervention; and such intervenor shall be bound by rulings and orders theretofore entered.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.220 Declaratory Rulings

a) When requested by the affected person, the Commission may in its sole discretion issue a declaratory ruling with respect to:

1) the applicability of any statutory provision enforced by the Commission or of any Commission rule to the person(s) requesting a declaratory ruling; and

2) whether the person's compliance with a federal rule will be accepted as compliance with a similar Commission rule.

b) A request for a declaratory ruling:

1) shall be captioned as such and shall contain a complete statement of the facts and grounds prompting the request, including a full disclosure of the requester's interest; a clear, concise statement of the controversy or uncertainty that is the subject of the request; the requester's proposed resolution of that controversy or uncertainty; and citations to any statutes, rules, orders or other authorities involved; and

2) may be filed by itself or in conjunction with a complaint, petition, application or other pleading seeking other relief.

c) The Commission may in its sole discretion direct that a request for a declaratory ruling be served on any person the Commission deems may be affected by the request.

d) The requester(s) shall make available for the Commission's use the originals, or, if so directed, certified or verified copies, of all books, papers, and documents that may be required. Failure to do so may be grounds for declining to issue a declaratory ruling.

e) Responses, if any, to a request for declaratory ruling shall:

1) be filed with the Commission within 21 days after the date on which the request was filed with the Commission or within such other time as the Commission directs; and

2) be served upon the requester.

f) Replies to responses may be filed with the Commission within 14 days after service, or within such other time as the Commission directs.

g) All requests, responses and replies containing allegations of fact must be supported by affidavit or verified.

h) The Commission may in its sole discretion dispose of a request for a

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declaratory ruling solely on the basis of the written submissions filed before it.

- i) Declaratory rulings shall not be appealable.
- j) The Commission may, pursuant to Section 10-113 of the Public Utilities Act (220 ILCS 5/10-113) and after notice to the affected person(s), revoke or revise its declaratory ruling. However, a person whose request for a declaratory ruling has been granted by the Commission and who has relied in good faith on the declaratory ruling shall not thereafter be fined, sanctioned or otherwise penalized as a result of such reliance.
- k) The Commission shall maintain as a public record in its Springfield office and make available for public inspection and copying any declaratory rulings. The Commission shall delete trade secrets or other confidential information from the ruling before making it available for public inspection.
- l) With regard to a request filed under Section 200.220(a)(2), if the Commission determines that compliance with the federal rule:
 - 1) would not satisfy the purposes or relevant provisions of the State law involved, the Commission shall state the reasons for the determination in its declaratory ruling;
 - 2) would satisfy the purposes and relevant provisions of the State law involved but would not satisfy the relevant provisions of the Commission rule involved, the Commission shall so inform the requester and the Joint Committee on Administrative Rules, and the Commission may initiate a rulemaking proceeding in accordance with Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35] to consider revising its rule to accept compliance with the federal rule as compliance with the relevant provisions of the State law. In such a case, the Commission may issue a waiver of its rule insofar as it applies to the requester and attach any terms and conditions to such waiver that it deems necessary; and
 - 3) would satisfy the purposes and relevant provisions of the State law and the Commission rule involved, the Commission shall state in its declaratory ruling that compliance with the federal rule constitutes compliance with the State rule and shall specify any necessary terms and conditions.

(Source: Added at 19 Ill. Reg. _____, effective _____)

SUBPART C: PREHEARING PROCEDURE AND DISCOVERY

Section 200.300 Prehearing Conferences

- a) The Hearing Examiner, on his or her own motion, upon motion by any party or staff witness, or when directed by the Commission, shall with reasonable written notice request all parties and staff witnesses to

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attend a prehearing conference when it appears that any of the goals set forth in subsections (a)(1) through (a)(7) of this Section can be attained. Such a conference shall be held for the purpose of formulating issues and considering:

- 1) Simplification of issues;
 - 2) Amendments to the pleadings;
 - 3) The development of docket-specific discovery schedules and procedures to facilitate the prompt and efficient resolution of the proceeding;
 - 4) The possibility of obtaining admissions of fact and of the genuineness of documents which will avoid unnecessary proof;
 - 5) Limitations on the number of witnesses;
 - 6) The procedure at the hearing; and
 - 7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.
- b) Except where the Illinois Administrative Procedure Act [5 ILCS 100] otherwise provides, the Hearing Examiner may on his or her own motion, on motion of any party or staff witness, or when directed by the Commission, with written notice to all parties and staff witnesses, initiate an informal discussion whenever it appears that a mechanism less formal than a hearing might be useful in resolving any issue in a proceeding.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.310 Other Prehearing Submissions

The Hearing Examiner may at any time on his or her own initiative, or on motion of any party or witness, consider the need for, and request as appropriate on a case by case basis:

- a) prehearing briefs on specified issues;
- b) prehearing oral presentations on specified issues; and/or
- c) the submission of prehearing orders or statements outlining the issues in dispute and key facts, and identifying the applicable statutes, rules, orders, or other authorities.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 200.335 Application of Discovery Rules Contained in Sections 200.340 through 200.430

- a) Except as otherwise specified in this Section, the provisions of Sections 200.340 through 200.430 of this Part shall apply fully to all proceedings before the Commission. In proceedings under the ICTU, subsection (b) of this Section shall control in the event of a

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conflict between this Section and the remaining Sections of this Subpart.

- b) Special discovery provisions applicable to proceedings under Section 18c-2105 of the ICTL [625 ILCS 5/18c-2105] (Ill.-Rev.-Stat.-1985-ch-95-172-par-18c-2105).

1) Discovery Generally. Any party may utilize written interrogatories, depositions, requests for discovery or inspection of documents or property and other discovery tools commonly utilized in civil actions in the circuit courts in the State of Illinois in the manner contemplated by the code of civil procedure and the rules of the Supreme Court of Illinois; except that discovery must be completed by the 30th day after the party filed its petition for leave to intervene, unless the period of discovery is extended by agreement of the parties or by the Commission. The Chairman or a hearing examiner may, at any time, on his own motion or at the request of a party, issue such rulings denying, limiting, conditioning, or regulating discovery as justice requires, and may supervise all or part of any discovery procedure. Parties to proceedings before the Commission are encouraged to clarify and resolve issues where possible through the use of pre-hearing discovery. However, discovery order should be calculated to lessen the time and expense required to reach an informed resolution of the issues.

2) Subpoenas. The Chairman or a hearing examiner may, for good cause, issue a subpoena directing a person to appear and testify, and to produce records, documents, or other papers, at a time and place set forth in the subpoena, in connection with a proceeding before the Commission. Service of the subpoena shall be in the same manner as a subpoena issued by a court. The Commission may, on its own motion or the motion of a person served with a subpoena, quash the subpoena, in whole or in part.

3) Appeal from discovery and subpoenas. A person served with a discovery request or subpoena may appeal such interlocutory matter to the Commission. Such appeals shall set forth grounds for seeking to quash or limit the scope of the discovery or subpoena, as well as the specific relief sought, and must be filed within 10 days after service of the discovery or subpoena. If discovery is stayed by the Commission, the person served shall be excused from compliance with the discovery order or subpoena until a decision on its appeal is made by the Commission.

4) Assessment and payment of discovery costs. The Commission may assess the costs of discovery, including fees for witness attendance and travel, against the party by which discovery was requested. Where a subpoena is issued on the Commission's own motion, fees for witness attendance and travel shall be paid by the Commission on request. Witness fees shall be the same as for a circuit court proceeding. Deposits to insure payment of costs and fees may be required.

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5) Enforcement of discovery procedures. The Commission may, where a person has failed to comply with or permit discovery authorized hereunder, determine any or all issues within the scope of the discovery or subpoena adverse to such person without further evidence. The Commission may, in addition, assess civil penalties under Article VII of sub-chapter 1 of the ICTL for such violator for contempt and may assess the costs of enforcement, both before the Commission and before the court, against the violator.

c) Data requests shall only be served on parties and a Staff representative in the docket. Each data request propounded by a party or Staff representative shall be served on all other parties and the Staff representative in that docket. Responses to data requests shall only be served on those parties or Staff representatives that have requested such responses. Data requests and responses thereto shall not be served on the Hearing Examiner or filed with the Chief Clerk.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.370 Supervision of Discovery

a) The Hearing Examiner, upon his or her own initiative, or upon the motion of any party or witness, may, in consultation with the parties, develop docket-specific discovery schedules and procedures to facilitate the prompt and efficient resolution of the proceeding. In cases involving multiple parties, multiple issues and/or time deadlines, it is the policy of the Commission to encourage the establishment of discovery schedules and procedures at the earliest opportunity.

b) ~~a~~ The Hearing Examiner may at any time on his or her own initiative, or on motion of any party or witness, issue such rulings as justice requires, denying, limiting, conditioning or regulating discovery to prevent unreasonable annoyance, expense, disadvantage or oppression.

c) ~~b~~ The Hearing Examiner, upon his or her own initiative, or upon the motion of any party or witness, may supervise all or any part of any discovery procedure.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.410 Time Limits on Discovery

a) Requests for information or discovery and responses thereto shall be made in a timely fashion and in accordance with any time schedule set by the Hearing Examiner. No such request shall delay any proceeding in the absence of a showing that the requester has exercised due diligence and that the delay will not cause undue prejudice.

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- b) All responses to data requests shall be served within 28 days after service of the request, unless the period is shortened or lengthened by the Hearing Examiner or by agreement of the parties.
- c) Requests for admissions shall be deemed admitted if not responded to within 28 days after service, unless the period is shortened or lengthened by the Hearing Examiner or by agreement of the parties.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART D: HEARING PROCEDURE

Section 200.520 Interlocutory Review of Hearing Examiner's Ruling

- a) Any ruling by a Hearing Examiner, including rulings of the Chief Hearing Examiner under Sections 200.510 and 200.870, may be reviewed by the Commission, but failure to seek immediate review shall not operate as a waiver of any objection to such ruling. Unless good cause is shown or unless otherwise ordered by the Hearing Examiner or the Commission, the party or staff witness seeking review of the ruling shall file a petition for interlocutory review within 21 days after the date of the action that is the subject of the petition. The petition shall be filed with the Chief Clerk ~~a petition~~ together with any offer of proof, and shall be served ~~serve a copy of the~~ upon the Hearing Examiner and upon staff witnesses and all parties to the proceeding. A petition for interlocutory review shall not be filed after the record has been marked "Heard and Taken." Other parties and staff witnesses may file responses within seven days of the filing of the petition. The Hearing Examiner shall have 14 days from the filing of the petition within which to file a report to the Commission with the Chief Clerk, who shall serve copies of such report on the parties and staff witnesses. Only in extraordinary circumstances shall an interlocutory review of a ruling of a Hearing Examiner suspend a hearing.

- b) On review of a Hearing Examiner's ruling, the Commission may affirm or reverse the ruling in whole or in part, and may take any other just and reasonable action with respect to the ruling, such as declining to act on an interlocutory basis. Petitions to rehear or reconsider Commission action taken under this Section shall not be entertained by the Commission and are not allowed under this part, except as to persons who have been denied leave to intervene by such action.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.525 Paper Hearings

- a) Parties and staff participating in the proceeding may stipulate to the

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waiver of any rights they have to a hearing and that the matter be tried or otherwise resolved on the basis of written pleadings and submissions and that the Commission may enter a final order in the matter in reliance thereon.

- b) Any such stipulation is subject to approval by all parties, staff and the Hearing Examiner.
- c) In the event there is only one party to the proceeding, the Hearing Examiner may grant the requested relief upon motion by said party.
- d) Any party may propose such stipulations or make such motions at any time prior to the date the Hearing Examiner marks the case Heard and Taken. The Hearing Examiner may grant such relief at his or her discretion, after a reasonable period of time has elapsed to accommodate potential or likely intervention.
- e) Upon the motion of any party or staff, and for good cause shown, by order of the Commission, or by the Hearing Examiner's own motion, the Hearing Examiner may rescind his or her previous approval of the conduct of the proceedings on the basis of written submissions and may require such hearings as may be appropriate.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 200.530 Notice, Time and Place of Hearings

Except for those hearings permitted to be closed to the public by law, all proceedings of the Commission shall be open to the public. At least ten days' notice of the time and place of the first hearing shall be given to all parties; at least ten days' notice shall also be given to municipalities when required by Section 10-108 of the Public Utilities Act. In the discretion of the Commission or the Hearing Examiner, the first hearing may be held with less than ten days' notice if an emergency exists. Hearings may be held at such reasonable place in the State and at such reasonable time designated by the Commission or Hearing Examiner as may be consistent with the nature of the proceedings, the convenience of the parties and the public interest. A hearing by teleconference may be requested by a party or staff and allowed by the Hearing Examiner taking into account the purpose for the hearing, the availability of equipment and the circumstances of the parties and the Staff.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.605 Procedure for the Identification and Treatment in Hearings of Confidential or Proprietary Information or a Trade Secret

- a) Whenever a party files testimony, exhibits or other documents which contain information which is claimed to be or determined to be confidential, proprietary or a trade secret, and that information is excluded from the public record, the testimony, exhibit or document

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shall indicate plainly that information has been deleted on the grounds that it is claimed to be or determined to be confidential, proprietary or a trade secret.

- b) Parties may indicate that confidential or proprietary information or information which is a trade secret has been deleted by any method that plainly indicates on the public copy that information has been deleted and plainly identifies on the proprietary copy what specific information has been claimed to be or determined to be confidential, proprietary or a trade secret.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 200.615 Waiver of Cross-examination

Subject to the approval of the Hearing Examiner, parties and the Staff may stipulate that:

- a) cross-examination of witnesses may be waived;
 b) any witnesses for whom cross-examination has been waived need not be present at the hearing; and
 c) the prepared testimony of any witness for whom cross-examination has been waived shall be entered in the record by affidavit of the witness.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 200.640 Administrative Notice

- a) Consistent with Section 200.610, the Commission or Hearing Examiner may take administrative notice of the following:

- 1) Rules, regulations, administrative rulings and orders, and written policies of governmental bodies other than the Commission.
- 2) Contents of certificates, permits and licenses issued by the Commission, and the orders, ~~transcripts, exhibits, pleadings or any other matter contained in the record~~ of other docketed Commission proceedings.
- 3) Annual reports, tariffs, classifications and schedules regularly established by or filed with the Commission as required or authorized by law or by an order or rule of the Commission.
- 4) State and Federal statutes and municipal and local ordinances.
- 5) The decisions of State and Federal courts.
- 6) Generally recognized scientific or technical facts within the specialized knowledge of the Commission.
- 7) All other matters of which the Circuit Courts of this State may take judicial notice.

- b) Requests for administrative notice of transcripts, exhibits, pleadings

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or any other matter contained in the record of other docketed Commission proceedings are discouraged.

- c) ~~Parties and staff witnesses shall be notified either before or during the hearing or otherwise of the materials noticed and shall be provided a reasonable opportunity to contest the material so noticed.~~
 [5 ILCS 100/10-40] ~~(1117-Rev-Stat-1983; ch. 127, par. 1012).~~

AGENCY NOTE: As required by 1 Ill. Adm. Code 100.380, statutory language in this Section appears in distinguishing type. However, Section 10-40 of the Illinois Administrative Procedure Act, which is the statute quoted, applies only to contested cases and licensing proceedings. The statutory language in this Section is statutorily mandated as to such proceedings only, and not as to other proceedings. Nevertheless, this Section applies to all proceedings governed by this Part.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART E: POST-HEARING PROCEDURE

Section 200.800 Briefs

- a) At the close of the hearing, any party or staff witness may request an opportunity to file a brief. In instances where staff witnesses file a brief, one consolidated brief shall be filed on behalf of all staff witnesses. The Hearing Examiner, after notice, may require the filing of briefs. Briefs shall be filed in the same order as evidence was presented in the proceedings or as otherwise directed by the Hearing Examiner. Statements of fact in briefs and reply briefs should be supported by citation to the record. ~~Parties and staff witnesses are encouraged to use transcript citations, however, failure to do so will not result in rejection of the brief.~~

- b) Briefs shall be concise, and, if in excess of 30 20 pages, excluding appendices, shall contain:

- 1) A table of contents;
- 2) A summary of the position of the party filing; and A--short statement of the case;
- 3) Argument. A--summary of the position of the party filing; and 4+ Argument;
- c) Parties and the Staff shall not raise an argument in their reply briefs that is not responsive to any argument raised in any other party's or the Staff's opening brief.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.820 Hearing Examiner's Recommended or Proposed Order

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a) Proceedings under the Public Utilities Act.

- 1) In any hearing, proceeding, investigation or rulemaking conducted by the Commission, the Commission, Commissioner or hearing examiner presiding, shall, after the close of evidentiary hearings, prepare a recommended or tentative decision, finding or order including a statement of findings and conclusions and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record. Such recommended or tentative decision, finding or order shall be served by the Chief Clerk of the Commission on all parties who shall be entitled to a reasonable opportunity to respond thereto, either in briefs or comments otherwise to be filed or separately. The recommended or tentative decision, finding or order and any responses thereto, shall be included in the record for decision. [220 ILCS 5/10-111] ~~†††-Rev--Stat--1985--ch--111--3/37-par--40-†††.~~

- 2) Subsection (a)(1) applies only to those proceedings in which the decision is adverse to a party to the proceeding other than the agency or in which a party or Staff requests that a recommended or tentative decision, finding or order be served based upon good cause shown. Good cause shall include, but not be limited to, a representation that issues that otherwise would have been contested have been resolved by agreement between two or more of the parties. [5 ILCS 100/10-45] ~~††††-Rev--Stat--1985--ch--127-par--103†††-~~

b) Other proceedings.

- 1) The Hearing examiner shall issue a proposed order in any "Contested Case" or "Licensing Proceeding" if the proposed order is adverse to any party in the proceeding.
- 2) The Commission may, upon its own motion, direct a Hearing Examiner to issue a proposed order in any other proceeding.
- 3) The proposed order shall be served on all parties and staff witnesses by the Chief Clerk of the Commission.
- c) The Hearing Examiner may, with the agreement of the parties, allow oral closing statements to be made to the Hearing Examiner in lieu of briefs.

- d) The Hearing Examiner, upon his or her own motion, or the motion of any party or Staff representative, may establish reasonable page limitations applicable to briefs.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.830 Exceptions; Reply

- a) Within 14 days after service of the Hearing Examiner's proposed order, or such other time as is fixed by the Hearing Examiner, any party or staff witness may file exceptions to the proposed order in a brief designated "Brief on Exceptions" and within 7 days after the time for

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filing "Briefs on Exceptions" or such other time as is set by the Hearing Examiner, any party or staff witness may file as a reply, "Brief in Reply to Exceptions."

- b) Exceptions and replies thereto with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or reply thereto is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. Exceptions and replies thereto may contain written arguments in support of the position taken by the party or staff witnesses filing such exceptions or reply. When exceptions contain such written arguments in support of the position taken, the arguments and exceptions may be filed:

- 1) together in one "Brief on Exceptions"; or
- 2) in two separate documents designated "Brief on Exceptions," containing arguments, and "Exceptions," containing the suggested replacement statements or findings.

- c) Arguments in briefs on exception and replies to exceptions shall be concise, and, if in excess of 30 pages, shall contain:

- 1) A table of contents; and
- 2) A summary of the position of the party filing.
- d) Parties and Staff shall not raise an argument in their replies to briefs on exception that is not responsive to any argument raised in any other party's or Staff's brief on exception.

- e) Statements of fact in briefs on exception and replies to briefs on exception should be supported by citation to the record.

- f) The Hearing Examiner, upon his or her own motion, or the motion of any party or Staff representative, may establish reasonable page limitations applicable to arguments included in briefs on exception and replies to briefs on exception.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.850 Oral Argument

- a) The Commission, upon its own motion or the motion of a party, may hear oral argument upon seven days notice to the parties of the time and place upon:

- 1) Its own motion;
- 2) The motion of a party; or
- 3) A request for oral argument noted by a party on either its opening brief, reply brief or brief on exceptions, accompanied by a statement in support of such request in the body of the brief.

- b) Except upon special leave of the Commission, no party shall participate in oral argument without having filed a brief.

- c) The presentation or written materials or visual aids to the Commission at oral argument shall be limited to extracts from the record and briefs in the proceeding, and copies shall be served on all parties

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not less than five days prior to the date noticed for oral argument.

(Source: Amended	at 19	Ill.	Reg.	effective

Section 200.880 Rehearing

- a) After issuance of an order on the merits by the Commission, a party may file an application for rehearing. The application shall state the reasons therefore and shall contain a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously adduced. The application shall be filed within 30 days after service of the order on the party. An original and 11 copies of the application shall be filed with the Commission.
- b) Applications for rehearing must state with specificity the issues for which rehearing is sought. Incorporation of arguments made in prior pleadings and briefs must be specific as to document and page.
- c) If an application for rehearing alleges new facts, then the application must be filed with a verification. A verification need not be filed with an application for rehearing if the application does not allege new facts.
- d) No appeal shall be allowed from any order or decision of the Commission unless and until an application for rehearing thereof shall first have been filed and finally disposed of by the Commission. The Commission shall grant or deny such application in whole or in part within 20 days from the date of receipt by the Commission.

- b) Applications for rehearing must state with specificity the issues for which rehearing is sought. Incorporation of arguments made in prior pleadings and briefs must be specific as to document and page.
- c) If an application for rehearing alleges new facts, then the application must be filed with a verification. A verification need not be filed with an application for rehearing if the application does not allege new facts.

- c) If an application for rehearing alleges new facts, then the application must be filed with a verification. A verification need not be filed with an application for rehearing if the application does not allege new facts.

- 11b) No appeal shall be allowed from any order or decision of the Commission unless and until an application for rehearing thereof shall first have been filed and finally disposed of by the Commission. The Commission shall grant or deny such application in whole or in part within 20 days from the date of receipt by the Commission.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 200.890 Appeals

- a) Appeals from Commission final administrative decisions and orders entered under the Electric Supplier Act [220 ILCS 30] ~~4111-Rev-Stat-1985-CH-111-2-37-PAR-403-ET-SEQ~~ and the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/Ch. 18A] ~~4111-Rev-Stat-1985-CH-95-1-27-PAR-158-1-40-ET-SEQ~~ shall be as provided by the Administrative Review Law [235 ILCS 5/Art. III] ~~4111-Rev-Stat-1985-CH-110-PAR-3-1-ET-SEQ~~; appeals from decisions and orders entered under the ICTL and the Public Utilities Act shall be as provided in those statutes.
- b) Notice of appeals under Section 10-201 of the Public Utilities Act [220 ILCS 5/10-201] ~~4111-Rev-Stat-1985-CH-111-2-37-PAR-40-201~~ shall be served on all other parties of record. The notice of appeal filed with the Commission shall be captioned "(The name of appellant) v. Illinois Commerce Commission." In the body of the notice the appellant shall state the name and number of the Commission Docket, the order or orders appealed, but shall otherwise follow the form

- b) Notice of appeals under Section 10-201 of the Public Utilities Act [220 ILCS 5/10-201] (~~4111-Rev.-State-1995-en-111-3-3-Par-18-2011~~) shall be served on all other parties of record. The notice of appeal filed with the Commission shall be captioned "(The name of appellant v. Illinois Commerce Commission." In the body of the notice the appellant shall state the name and number of the Commission Docket, the order or orders appealed, but shall otherwise follow the form

DEPARTMENT OF CONSERVATION
NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Boat Access Area Development Program

2) Code Citation: 17 Ill. Adm. Code 3035

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3035.20	Amendments
3035.30	Amendments
3035.40	Amendments
3035.50	Amendments
3035.60	Amendments
3035.70	Amendments
3035.80	Amendments

4) Statutory Authority: Implementing and authorized by Section 63a25 of the Civil Administrative Code [20 ILCS 805/63a25] and Section 10-1 of the Boat Registration and Safety Act [625 ILCS 45/10-1].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to revise/clarify outdated language and revise grant formula for approved acquisition projects.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
NO

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

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NOTICE OF PROPOSED AMENDMENT(S)

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF CONSERVATION
SUBCHAPTER 9: GRANTS

PART 3035
BOAT ACCESS AREA DEVELOPMENT PROGRAM

Section	
3035.10	Program Objectives
3035.20	Eligibility Requirements
3035.30	Assistance Formula
3035.40	General Procedures for Grant Awards
3035.50	Applicable Facilities
3035.60	Selection Criteria
3035.70	Program Compliance Requirements
3035.80	Program Information Contact

AUTHORITY: Implementing and authorized by Section 63a25 of the Civil Administrative Code [20 ILCS 805/63a25] and Section 10-1 the Boat Registration and Safety Act [625 ILCS 45/10-1].

SOURCE: Adopted and codified at 7 Ill. Reg. 5858, effective April 27, 1983; amended at 9 Ill. Reg. 2910, effective February 26, 1985; amended at 11 Ill. Reg. 15896, effective September 21, 1987; amended at 15 Ill. Reg. 4117, effective March 4, 1991; amended at 16 Ill. Reg. 1797, effective January 17, 1992; amended at 19 Ill. Reg. _____, effective _____.

Section 3035.20 Eligibility Requirements

Local Agencies eligible for assistance under this grant program include municipalities, townships, counties, park districts, conservancy districts and port districts, or any other local government agencies ~~local~~ local ~~Agency~~ Agency capable of providing lands for public recreational purposes.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 3035.30 Assistance Formula

Financial Assistance up to 100% of eligible project construction costs and ~~90%~~ 50% of eligible project land acquisition costs can be provided through this program.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 3035.40 General Procedures for Grant Awards

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a) Grant applications for funding assistance under the program must be submitted to and received by the Department no later than September 1 of each calendar year. Awarding of grants will be made under the authority and directive of the Director of the Department. The number of grants awarded is limited to the total amount of funds available for the program in the given fiscal year.

b) The project application consists of the following components:

- 1) Completed application forms
- 2) Location map
- 3) Site plan
- 4) Site Premise/Plat Map
- 5) Resolution of the governing body of the Local Agency authorizing submittal of an application for assistance from the Boat Access Area Construction Program
- 6) Proof of land ownership or lease
- 7) Acknowledgement of State review and sign-off regarding cultural resources [20 ILCS 3120/1], endangered species [520 ILCS 10/11], wetlands [20 ILCS 830/1-1], and prime farmland preservation [505 ILCS 75/11]. ~~Illinois--Historic--Preservation--Agency--sign-off regarding--historic--resource--impact--fill--Rev--Stat--1989--ch--127--par--13321--et--seq--7--Illinois--Department--of--Agriculture sign-off--regarding--prime--farmland--impact--fill--Rev--Stat--1989--ch--57--par--1381--et--seq--7--and--Department--of--Conservation--sign-off regarding--wetland--impact--fill--Rev--Stat--1989--ch--96--1737--par--9701--et--seq--7--~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 3035.50 Applicable Facilities

The following facilities are eligible for consideration in the construction of boat access areas:

- a) Boat and canoe launching ramp/area
- b) Maneuvering area for car and trailer adjacent to ramps
- c) Parking area to service ramp users
- d) Access road to the ramp (up to 1/4 mile in length) and parking area
- e) Sanitary facilities including potable water supply and sewage facilities
- f) Initial channel improvements in launching ramp area
- g) Security lighting and burial of existing overhead utility lines
- h) Walkways adjacent to and serving ramp
- i) Courtesy docks
- j) Marine sanitary disposal stations
- k) Docks to support gas pumps
- l) Land acquisition necessary to provide boating access to Illinois' surface waters
- m) Other facilities deemed by the Department to add to the ease of

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operations or maintenance, or add to the use of the facility, so long as it applies to, and is of use to the boating public.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 3035.60 Selection Criteria

a) The following criteria will be taken into consideration by the Department in evaluating and selecting projects for funding. Numerical values will be established for each of the criteria as follows:

- 1) Financial Cooperation - financial participation by the Local Agency. (0-10)
- 2) Projected Usage - demand for and anticipated usage of the proposed facility. 0-25)
- 3) Impact on Business - impact on privately owned boating related business in the area. (0 or -5)
- 4) Site Suitability - site related conditions and design features relating to the proposed development grant. (0-20)
- 5) Program Suitability - is the proposed project in line with the overall purpose of the grant program? (0 or -10)
- 6) Ability to Maintain - capability of the applicant to operate and maintain the facility. (0-10)
- 7) User Fees - are user fees being charged; are they fair and equal; are charges the same for residents and non-residents of sponsor's jurisdiction? (0-5)
- 8) Cost/Benefit Assessment and User Input Justification - is project justified by local plan or user study reflecting public input and anticipated use level? (0-8) Regional/Local Needs---High-or-low priority---regional-and-county-need-as-identified-in-the-Statewide Comprehensive-Outdoor-Recreation-Plan-(SCORP)---(0-8)
- 9) Water Body Served - priority given to providing boater access to major bodies of water in Illinois. (0-15)
- 10) Current Access Availability - initial access to body of water given priority. (0-7)
- b) The Department Grant--Section--staff will review, evaluate and prioritize the applications utilizing the criteria listed above and will forward their recommendations to the Director of the Department for a final determination. Awarding of grants is on a competitive basis and made under authority and directive of the Director of the Department of Natural Resources. In arriving at a final determination, the Director will consider the recommendations of the Department Grant--Section staff, Department of Natural Resources Advisory Board Members and the criteria listed above.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 3035.70 Program Compliance Requirements

- a) The land to be used in development of boat access areas must be owned in fee simple or leased by the Local Agency. The Local Agency must provide proof of ownership or lease before plans for the facility can proceed. The term of the lease is determined by the amount of the contract.
- b) For projects receiving assistance to acquire land for a boat access area, acquisition of the project property must be completed within nine (9) months following project approval, with the exception of those involving eminent domain. An independent appraisal must be completed by the sponsoring agency and certified by the Department to establish a fair market value for the project property. For land valued at over \$25,000, two appraisals may be ~~are~~ required. The appraisal(s) ~~appraisals~~ must be a full analytical narrative reports prepared by certified appraisers. Title to any property for which grant reimbursement is sought shall not be taken nor payment made for such property by the sponsoring agency before Department approval is received. Grant payment shall be limited to no more than 90% ~~50%~~ reimbursement of the certified fair market value and in no case shall exceed actual cash payment for the property.
- c) Land acquired with grant assistance must be subsequently developed as a public boat access area in general accordance with the approved project application proposal within three (3) years following the date title is secured for the property. Failure to improve the property for such use within the three (3) year time period shall result in the property being considered "converted" from its intended use necessitating remedial action, as specified in subsection (p) by the Local Agency.
- d) The Local Agency is required to enter into a Standard Agreement with the Department in an amount agreed upon by the Local Agency and the Department as that necessary to complete the Department's share of project costs. Any costs incurred in the development and construction of the facilities in excess of the specified amount shall be paid by the Local Agency.
- e) The Local Agency shall employ a competent engineering or architectural firm to develop necessary plans and specifications and to provide all other necessary design and construction supervision services for an approved project. Any engineering or architectural agreement or contract must be approved by the Department prior to its acceptance by the Local Agency. The Department shall approve the agreement or contract based upon the design fee, the construction cost, and the project complexity. The Department may waive this requirement if the local agency possesses duly licensed and qualified in-house engineering and/or architectural staff capable of performing such services.
- f) If the Local Agency, by its unilateral action, terminates the project at any point short of its completion, the Local Agency shall be liable

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be available for use and enjoyment by the public without regard to race, color, sex, national origin, age or disability. No lessee or licensee of an area under a concessionaire providing a service to the public, including facilities and accommodations, shall discriminate against any person or persons because of race, color, sex, national origin, age or disability in the conduct of its operation under the lease, license or concession agreement.

C) No improvements, alterations or modification of these facilities shall be permitted except with the prior approval in writing by the Department. Approval will be given by the Department if the improvements, alterations or modifications comply with the criteria in Section 3035.50.

D) The Department shall have access to all facilities at all times to ensure management and use of such facilities are in compliance with specified program regulations.

E) ~~An official from the Department shall inspect the facilities prior to June 1st of each year to insure all deficiencies reflected in the inspection report have been corrected by the local agency.~~

E) ~~Boats with gasoline or diesel motors shall not be prohibited from using any facility funded through Marine Motor Fuel Tax Funds to launch and recover unless otherwise approved by the Department. Reasonable motor size limits and use restrictions may be imposed at a grant funded facility provided such limits are approved by the Department prior to implementation.~~

2) User Fees.

A) The Department discourages the charging of user fees; however, the Local Agency may, by formal resolution of the governing unit, charge minimal fees to offset operation and maintenance, security, and public health and safety costs.

B) In the case of locally owned water impoundments the incurred costs to be offset may also include navigational aids, rescue aids, water patrol and other related costs which are absolutely necessary.

C) No other costs will be allowed in calculating the minimal fee. Any discretionary fee for special services which is not a part of the project funded from Marine Motor Fuel Tax Revenue, such as boat slips, moorings or other services that cannot be used by all boaters, shall be levied separately.

D) The setting, administering and justifying of the fees to the general public is primarily the responsibility of the Local Agency. The Department reserves the right to ensure that any fee is within the scope of the contract.

E) The Local Agency shall maintain accounting records to explain receipt and disposition of all fees related to the launching facility and the Department may request or audit

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such records at anytime to ensure the revenue received from the fees is being used to operate and maintain the facility. If fees are determined necessary by the Local Agency, the charging of reasonable daily fees as well as seasonal use fees shall be provided to assure that the occasional user is afforded access to the waters served by the facility. In the event the boat access facility is within the boundaries of a public park or recreational area, no annual fee shall be required non-park district residents using only the boat launching facility constructed or improved with the aid of this grant. However, a daily fee may be required by the Local Agency provided it does not exceed the annual park district fee for residents, computed on a daily basis.

G) Prior to charging of user fees, the Local Agency is required to give public notice of said fees at least 30 days in advance of the effective date of such fees and provide a copy of the proposed fee schedule and the public notice to the Department prior to implementation.

H) The method of collecting fees shall be established by the Local Agency. However, the general public shall not be restricted from use of the facility upon arrival if an authorized representative of the Local Agency is not present to receive the required fee.

I) An information sign which lists rules and regulations regarding fees shall be posted in a conspicuous place which is near a boat ramp or launching site.

3) Routine:

~~the operation and maintenance of the facility is the responsibility of the local agency.~~

p) Properties acquired or developed with grant assistance hereunder must not be converted to a use which would deny public boat access and use of Illinois' surface waters per terms of this Part without prior Department of Natural Resources **conservation** approval. Approval for conversion of property acquired per terms of this Part shall only be granted upon the following:

1) the local agency provided replacement property of at least equal fair market value and comparable recreational usefulness, quality and general location; or

2) the repayment of funds to the State of Illinois equal to the actual amount of grant funds disbursed hereunder or 50% of the property's certified fair market value at the time of conversion, whichever is greater.

q) For projects receiving development/construction grant assistance only, terms of the grant program agreement between the Local Agency and the Department shall no longer apply after the time period established below relating to the total amount of grant funds received to aid the facility.

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Total Grant Amount	Time Period After Receipt of Final Grant Payment
0-\$25,000	7 years
\$26,000 - \$100,000	12 years
\$100,000 - \$250,000	17 years
over \$250,000	25 years

- r) Leasing or assignment of a Department funded facility is prohibited without prior approval of ~~notification~~ to the Department.
- s) The Local Agency shall agree that in the event of its breach or non-compliance with any of the terms of the agreement between the Local Agency and the Department that ten (10) days following receipt of a written notice from the Department of the existence of said breach or non-compliance, if said condition is not corrected within this ten (10) day period, that the Department shall thereafter have full right and authority to take such action as it deems necessary whether by way of injunction or otherwise to enforce the provisions of the agreement to prevent the continued breach or violation thereof by the Local Agency. It is further agreed by the Local Agency, that in the event it is adjudicated by any court that its activities are deemed to be a breach or violation of the agreement, as a part of the relief awarded to the Department, that the Local Agency will reimburse the Department for the legal fees and all costs incurred by the Department in the pursuit of its rights under this paragraph. For purposes of this paragraph, "legal fees" shall be deemed to be the entire sum presented for payment by any attorney or law firm to the Department relating to the claim of the Department alleging the Local Agency's breach or violation, said sum being approved for payment by the Attorney General's office of the State of Illinois. For purposes of this paragraph, "costs" shall be deemed to be all those expenses, including court costs, reasonably incurred by the Department. In the event of breach of the agreement, the Department reserves the right to demand return of any state funds awarded under the agreement.
- t) The Local Agency shall agree that the Department reserves the right to audit records relative to the agreement.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 3035.80 Program Information Contact

Write: Illinois Department of Natural Resources Conservation
Division of Grant Administration ~~Technical Services~~
524 South Second St.
Lincoln Tower Plaza
Springfield, Ill. 62701-1787

Telephone: 217-782-7481

DEPARTMENT OF CONSERVATION

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(Source: Amended at 19 Ill. Reg. _____, effective _____)

DEPARTMENT OF CONSERVATION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: White-Tailed Deer Hunting by Use of Bow and Arrow

2) Code Citation: 17 Ill. Adm. Code 670

3) Section Numbers: Proposed Action:

670.10	Amendments
670.20	Amendments
670.50	Amendments
670.60	Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add information regarding a disabled archery deer hunting program at Kankakee River State Park. References to Department of Conservation have been changed to Department of Natural Resources.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis: This rule does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: July 1995

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NOTICE OF PROPOSED AMENDMENT(S)

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF CONSERVATION
SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section

- 670.10 Statewide Open Seasons and Counties
670.20 Statewide Deer Permit Requirements
670.21 Deer Permit Requirements - Landowner/Tenant Permits
670.30 Statewide Legal Bow and Arrow
670.40 Statewide Deer Hunting Rules
670.50 Rejection of Application/Revocation of Permits
670.55 Reporting Harvest
670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired at March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. _____, effective _____.

Section 670.10 Statewide Open Seasons and Counties

- a) All regulations set forth in Chapter 61, Section 2.26 of the Wildlife Code apply in this rule.
b) For Cook, DuPage, Kane and Lake counties - October 1 through the first Thursday after January 10.
c) For all other counties - October 1 through the first Thursday after

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January 10, closed during the period when deer hunting with a firearm is permitted as set out in 17 Ill. Adm. Code 650, except Department of Natural Resources (Department or DNR) ~~conservation department or DNR~~ owned or managed sites designated in Section 670.60 by an asterisk (*) shall be open to archery deer hunting without regard to firearm deer season (no firearm deer hunting pursuant to 17 Ill. Adm. Code 650 allowed).

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 670.20 Statewide Deer Permit Requirements

- a) All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits are available over-the-counter (OTC) from license vendors as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for resident archery combination permits shall be \$25.00; nonresident archery combination permits shall be \$120.00. A single either-sex archery deer permit will be available until September 1 of each year by mail only from the Permit Office. The fee for a resident archery single permit shall be \$15.00; a nonresident archery single permit shall be \$100.00. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. For the single either-sex or landowner/tenant permit applications and other information, write to:

Department of Natural Resources **Conservation**

Archery Deer Permit Office
524 South Second Street, Room 210
P.O. Box 19227

Springfield, Illinois 62794-9227

- b) To obtain the single either-sex permit or a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his individual application. The combination archery deer permits are available from license vendors located throughout the State. Hunters purchasing archery deer permits must supply all necessary applicant information to the license vendor in order to properly complete the permit.
c) Beginning dates for acceptance of applications for the single either-sex permit will be announced publicly. Archery applications received after September 1 will be rejected and the fees returned.
d) Permits are not transferable. Refunds will not be granted.
e) A three dollar \$3.00 service fee will be charged for replacement

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permits issued by ~~DNR the Department of Conservation~~ ~~(Department--of--Conservation)~~, except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.

- f) There is no limit to the number of combination archery deer permits that an individual may purchase, but each individual is limited to one of the single either-sex permits per season.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 670.50 Rejection of Application/Revocation of Permits

- a) In the event that an applicant for one of the permits available from the Permit Office is in violation of one of the following subsections, in addition to other penalties the application shall be held in suspension, and any application fees shall be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and any fee collected shall be retained by ~~DNR Conservation~~. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should it be determined that the violation was without the knowledge of the applicant, the permit office will process only the number of applications allowed by administrative rule with additional applications rejected and fees returned.

- 1) Using a hunting rights lease, mineral rights lease or other lease for land which does not evidence a genuine farm tenancy to obtain an archery deer permit;
 - 2) Submitting more applications in the same name or by the same person for an archery deer permit than allowed for in Sections 670.21;
 - 3) Providing false and/or deceptive information on the deer permit application form;
 - 4) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code (Ill. Rev. Stat. 1991, ch. 61, par. 3.36) [520 ILCS 5/3.36].
- b) In the event that the purchaser of a combination archery deer permit is in violation of one of the following subsections, the permit will be revoked in addition to any other penalties. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530.
- 1) Providing false and/or deceptive information on the deer permit form.
 - 2) Purchasing an archery deer permit when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36].
 - c) Any violations of the Wildlife Code [520 ILCS 5] or administrative

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rules of the Department (17 Ill. Adm. Code, Chapter I), in addition to other penalties, may result in revocation of deer hunting permits as per 17 Ill. Adm. Code 2530.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 670.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.
- b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1).
- c) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- d) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).
- e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- g) Statewide regulations shall apply at the following sites:

- Argyle Lake State Recreation Area (2)
- * Anderson Lake Fish and Wildlife Area (2)
- * Banner Marsh Fish and Wildlife Area (2)
- * Big Bend State Fish and Wildlife Area (1)(2)
- Big River State Forest (2)
- Cache River State Natural Area (1)(2)
- Carlyle Lake Lands and Waters (Corps of Engineers managed lands)
- Carlyle Lake Wildlife Management Area (except subimpoundment area is closed seven days prior to and during the regular waterfowl season)

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Castle Rock State Park (1)(2)
 Coffeen Lake State Fish and Wildlife Area (2)
 Crawford County Conservation Area (1)(2)
 Dog Island Wildlife Management Area (1)(2)
 * Eldon Hazlet State Park (2)
 Ferne Clyffe State Park (1)(2)
 Fort de Chartres State Historic Site (1)(2)
 Fort Massac State Park (1)(2)
 Franklin Creek State Park (2)
 Giant City State Park (1)(2)
 Heidecke State Fish and Wildlife Area (2)(3)
 Horseshoe Lake Conservation Area - Alexander County (Controlled Goose Hunting Area - open from October 1 until 25 days prior to the opening of the Quota Zone goose season; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1)(2)
 I-24 Wildlife Management Area (1)(2)
 Jubilee College State Park (2)(4)
 Kaskaskia River Fish and Wildlife Area (1)(2), except south of Highway 154 and north of Highway 13)
 Kidd Lake State Natural Area (1)
 Kinkaid Lake Fish and Wildlife Area (1)(2)
 Lowden-Miller State Forest (1)(2)(4)
 Mackinaw River Fish and Wildlife Area (1)(2)
 Marseilles Wildlife Area (closed Friday, Saturday, and Sunday in October) (1)(2)
 Marshall Fish and Wildlife Area (2)

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Mississippi Fish and Waterfowl Management Area - Pools 25 and 26
 Mississippi River Pool 16 (1)
 Mississippi River Pools 17, 18 (1)
 Mississippi River Pools 21, 22, 24
 Mt. Vernon Propagation Center (1)(2)
 Oakford Conservation Area
 Panther Creek Conservation Area (1)(2)
 * Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1)(2)
 Pere Marquette State Park (area east of Graham Hollow Road) (2)
 Pike County Conservation Area (2)
 Pyramid State Park (1)(2)
 * Randolph County Conservation Area (1)(2)
 * Red Hills State Park (1)(2)
 Rend Lake State Fish and Wildlife Area
 Rice Lake Fish and Wildlife Area (2)
 Saline County Fish and Wildlife Area (1)(2)
 * Sam Parr State Park (1)(2)
 Sangamon County Conservation Area
 Sangamon State Wildlife Area (1)
 Shabbona Lake State Park (2)
 Shelbyville Wildlife Management Area (1)
 Siloam Springs State Park (1)(2)(4)
 Silver Springs State Park (2)
 Tapley Woods State Natural Area (1)(2)

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Trail of Tears State Forest (1)(2)

Turkey Bluffs Fish and Wildlife Area (1)(2)

Union County Conservation Area (Controlled Goose Hunting Area - open from October 1 until 25 days prior to the opening of the Quota Zone goose season; reopens with the close of the Quota Zone goose season through statewide closing) (1)(2)

Walnut Point Fish and Wildlife Area (1)

- * Washington County Conservation Area (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1)(2)

Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

- h) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:

Beaver Dam State Park

Pere Marquette State Park (hunting in designated camp areas only; season begins the first weekday after camps close)

Rend Lake State Fish and Wildlife Area (designated area on refuge only December 15-17, 1995)

Union County Conservation Area (designated areas only, October 27-29, 1995)

- i) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)

Clinton Lake State Recreation Area (except Inner Peninsula and Mascoutin areas) (1)

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Des Plaines Conservation Area (closed to archery deer hunting during the site's upland game hunting season) (2)

Des Plaines Game Propagation Center (2)

Eagle Creek State Park

Fox Ridge State Park (1)

Hamilton County Conservation Area (1)

Hidden Springs State Forest (1)

Joliet Army Ammunition Plant (an additional \$15 fee will be assessed upon registration) (2)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season. Additionally, a limited disabled hunting opportunity exists at the Davis Creek Bike Trail Area. Disabled hunters, as defined in 520 ILCS 5/3.1(c), may register to hunt at the site office and must sign in and out daily. Disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during disabled hunting season (the day after the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 to December 24) †††

Kickapoo State Park (1)

Mautino State Fish and Wildlife Area (1)

Mermet Lake Conservation Area (1)(2)

Middle Fork Fish and Wildlife Area (1)

Mississippi Palisades State Park (November 1 through December 31) (1)

Newton Lake Fish and Wildlife Area (check deer at site office)

Pekin Lake Fish and Wildlife Area (1)

Ramsey Lake State Park (1)

Sam Dale Lake Conservation Area (1)

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Sand Ridge State Forest (1)

Sangchris Lake State Park (1)(5)

Site M (1)(4)

Snake Den Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)

Spring Lake Fish and Wildlife Area (1)

Stephen A. Forbes State Park (1)

Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1); Belle Rive Unit only (4)

Witkowsky State Wildlife Area (1)

- j) Statewide regulations shall apply except that no hunting is permitted Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season. Tuesday hunting hours close at 2:00 p.m. and hunters must check out by 3:00 p.m. Season reopens on December 26 till close of regular season.

Green River State Wildlife Area (1)(2)

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Park

Moraine View State Park (1)

Wayne Fitzgerald State Recreation Area (no bowhunting during controlled hunts as posted at the site) (1)(2)

- k) Statewide regulations shall apply at the following sites except that hunter quotas are filled by mail-in drawing. Hunters must harvest one doe before being allowed to take an antlered deer.

Clinton Lake (Inner Peninsula and Mascoutin areas only)

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Administrative Hearings and Appeals

- 2) Code Citation: 56 Ill. Adm. Code 2725

- 3) Section Numbers: Proposed Action:
2725.100 Amended
2725.105 Amended
2725.110 Amended
2725.120 Amended
2725.200 Amended

- 4) Statutory Authority: Ill. Rev. Stat. 1991, ch. 48, pars. 451, 452, 453, 456, 571, 571.1, 572, 572.1 578, 578.1, 579, 580, 610, 611, 680, 683, 705 [820 ILCS 405/701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2203, and 2305].

- 5) A Complete Description of the Subjects and Issues Involved: The changes in Sections 2725.100, 2725.105 and 2725.120 are to delete references which became obsolete when the Legislature amended the UI Act to change Illinois from a benefit wage ratio experience rating system to a benefit ratio system, eliminated base period employer charging and changed calculation of rates from wages on which contributions were paid to taxable wages.

The changes in Sections 2725.110 and 2725.200 clarify that no hearing is necessary regarding a protest to a Determination and Assessment where the agency agrees with the employing unit's protest. They also clarify that, where an employing unit has filed an insufficient or apparently untimely protest, the employing unit has the opportunity to cure the insufficiency or explain why the protest is timely. Technical changes are also made in that "employer" is changed to "employing unit" to more closely conform to the language of Section 2200 of the statute and the term "Determination and Assessment" is capitalized.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this part? No

- 10) Statement of Statewide Policy Objectives: Not applicable

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any person may submit data, views, arguments or comments within 45 days after this notice has been published in the *Illinois Register*. Comments shall be addressed to:

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Gregory J. Ramel, Deputy Legal Counsel
 Illinois Department of Employment Security
 401 South State Street - 2nd Floor South
 Chicago, IL 60605
 312-793-4240

12) Initial Regulatory Flexibility Analysis:

Date rules were submitted to the Small Business Office of the Department of Commerce and Community Affairs: July 20, 1995.

Types of small businesses, small municipalities and not for profit corporations affected: All businesses are affected the same.

Reporting, bookkeeping or other procedures required for compliance: None.

Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It was unanticipated when this rule would be issued.

The full text of the Proposed Amendment begins on the next page:

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TITLE 56: LABOR AND EMPLOYMENT
 CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
 SUBCHAPTER a: GENERAL PROVISIONS

PART 2725

ADMINISTRATIVE HEARINGS AND APPEALS

SUBPART A: GENERAL PROVISIONS

Section

2725.1 Definitions
 2725.3 Burden Of Proof
 2725.5 Designation Of Agents
 2725.10 Computation Of Time
 2725.15 Disqualification Of Agency Employee
 2725.20 Request For Clarification
 2725.25 Form Of Papers Filed

SUBPART B: FILING OF APPLICATIONS AND CLAIMS FOR RELIEF

Section

2725.100 Application For Revision Of Statement Of ~~Benefit--Wages--Gr--Of~~
~~Statement-Of~~ Benefit Charges
 2725.105 Application For Review Of Rate Determination
 2725.110 Protest Of Determination And Assessment
 2725.115 Claim For Adjustments (Credits) And Refunds
 2725.120 Application for Cancellation Of ~~Benefit--Wages-Gr~~ Benefit Charges Due To Lack Of Notice

SUBPART C: APPEALS TO DIRECTOR'S REPRESENTATIVE

Section

2725.200 Filing Of Appeal
 2725.205 Pre-Hearing Conference
 2725.210 Notice Of Hearing
 2725.215 Preparation For The Hearing
 2725.220 Telephone Hearings
 2725.225 Ex Parte (One Party Only) Communications
 2725.230 Subpoenas
 2725.232 Depositions
 2725.235 Consolidation Or Severance Of Proceedings
 2725.240 Withdrawal Of Petition For Hearing
 2725.245 Continuances
 2725.250 Conduct Of Hearing
 2725.255 Rules Of Evidence
 2725.260 Oral Argument-Memoranda-Post Hearing Documents
 2725.265 The Record
 2725.270 Recommended Decision

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2725.275 Objections To Recommended Decision
2725.280 Decision Of Director

AUTHORITY: Implementing and authorized by Sections 701, 702, 703, 706, 1501, 1501.1, 1502, 1502.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2300, 2301, 2302, 2304 and 2305 of the Unemployment Insurance Act [820 ILCS 405/701, 702, 703, 706, 1501, 1501.1, 1502, 7002.1, 1508, 1508.1, 1509, 1510, 1700, 1701, 2200, 2201, 2203, 2301, 2302, 2304, and 2305].

SOURCE: Adopted at 11 Ill. Reg. 11065, effective July 1, 1987; amended at 12 Ill. Reg. 14653, effective September 6, 1988; amended at 12 Ill. Reg. 16060, effective September 23, 1988; emergency amendments at 13 Ill. Reg. 11872, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17383, effective October 30, 1989; amended at 14 Ill. Reg. 5126, effective March 22, 1990; amended at 16 Ill. Reg. 113, effective December 23, 1991; amended at 16 Ill. Reg. 2122, effective January 27, 1992; emergency amendment at 16 Ill. Reg. 7502, effective April 22, 1992, for a maximum of 150 days; emergency expired on September 19, 1992; amended at 19 Ill. Reg. _____, effective _____.

SUBPART B: FILING OF APPLICATIONS AND CLAIMS FOR RELIEF

Section 2725.100 Application For Revision Of Statement Of Benefit Wages-Or--Of Statement-Of Benefit Charges

- a) Applications for Revision of the Statement of Benefit Wages-Or--the Statement-of Benefit Charges must be filed at the address specified on such Statement, within 45 days of the mailing of such Statement, as provided in Section 1508 of the Act.
- b) An Application shall set forth: the name and Social Security account number of each claimant whose benefit-wages--or benefit charges are contested; the amount of benefit-wages-or benefit charges contested or the weeks of benefit-wages-or benefit charges contested; the year and quarter of the Statement contested; and, in the some cases described in subsections (b)(1), (2) and (3) below (see-subsection-11-below), a statement of facts providing the basis for relief upon which the employer relies in its Application.

1) If-the-employer-is-charged-benefit--wages--and--did--not--receive notice-of--the-statement-despite--the-Agency's-second-of-the-mailing date-of-a--Notice-of-Pending-to-a-Base-Period-Employer--BIS-9857 shown-on-the-Statement-of-Benefit-Wages--Ben-1187--the--employer must--allege--this--fact--and--at--a-hearing--must--prove--lack-of notice-and--must--show--the--reasons--why--the--payment--of--benefits--to the--claimant--for--the--week--charged--or--the--charging--of--benefit wages--to--the--employer--is--improper.

A) If-an-employer-was--served--with--a--Notice--of--Pending--or Reconsidered--Pending--(BIS-9857)--pursuant--to--Section-701--or 703--of--the--Act--the--employer--may--not--object--to--the--benefit

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wages--on--the--basis--that--the--employer--was--not--an--employer during--the--base--period--of--the--claimant--that--the--claimant was--not--performing--services--in--employment--for--the--employer or--that--the--wages--as--shown--on--such--finding--are--incorrect.

B) If--an--employer--was--served--with--a--Notice--of--Pending (BIS-9857)--the--employer-is-remedy-for-relief-of-the-benefit wages-is-an-appeal-of-the-finding-pursuant-to-Section-800-of the-Act-or-a-request-for-reconsideration-of-the-finding pursuant--to--Section-703--of--the--Act--with--the--Claims Adjudicator--at--the--local--office--where--the--claimant--filed--for benefits.

C) If-the-finding-is-subsequently-modified--or--reversed--the benefit-wages--will--be-modified--or--cancelled--as--appropriate through--the--operation--of--Section-796--of--the--Act--(See-56 Ill--Adm--Code-37207).

2) If an employer alleges that the benefit-wages-or benefit charges arose from the payment of benefits to a claimant for weeks of eligibility to which the employer was entitled to notice of a determination pursuant to Sections 702 and 703 of the Act, and was not notified of such determination of eligibility and the claimant was improperly paid benefits, the employer must show that it filed in response to notice of the claim, a timely (see 56 Ill. Adm. Code 2720.30) Notice of Possible Ineligibility or letter in lieu thereof alleging that the claimant was ineligible for benefits for the weeks charged and did not receive a determination of eligibility or decision holding the Notice of Possible Ineligibility or letter in lieu thereof as insufficient or untimely.

A) A copy of the allegedly unanswered Notice of Possible Ineligibility or letter in lieu thereof should, if possible, be included with the Application, together with any subsequent documentation where applicable, such as a Referee or Board of Review decision holding the Notice of Possible Ineligibility as sufficient.

B) If the employer did not file a timely and sufficient Notice of Possible Ineligibility or letter in lieu thereof (pursuant to 56 Ill. Adm. Code 2720.130) in response to the notice of claim or-if-a-determination-of-eligibility--was served-upon--the--employer, the employer's remedy is to request a reconsidered determination from the local office Claims Adjudicator where the claimant filed for benefits, pursuant to Section 703 of the Act, or if a determination of eligibility was served upon the employer, its remedy is to file an appeal to the determination under Section 800 of the Act.

C) If the determination of eligibility for the weeks charged is reversed, the employer will receive appropriate relief from the benefit-wages-or-from-the benefit charges through the

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operation of Section 706 of the Act.

2) If the employer is charged for benefits and claims that it was not sent a notice that a claim was filed, the employer must allege this fact and, at a hearing, must prove lack of notice and must show the reasons why the payment of benefits to the claimant for the weeks charged is improper.

A) If an employer was served with a notice that a claim was filed, the employer's remedy for relief of the benefit charges is its protest of the claimant's eligibility pursuant to Section 800 of the Act or a request for reconsideration of a determination pursuant to Section 703 of the Act with the Claims Adjudicator at the local office where the claimant filed for benefits.

B) If the determination is subsequently modified or reversed, the benefit charges will be modified or cancelled, as appropriate, through the operation of Section 706 of the Act. (See 56 Ill. Adm. Code 2720).

3) When the employer alleges that a clerical error was made by the Agency, the nature of the clerical error and its effect on the benefit-wages or benefit charges must be clearly stated. A copy of the material bearing the error must accompany the Application.

4) Where the employer alleges that benefit-wages are non-chargeable because part-time work was provided by the employee during the claimant's base period was continued into the applicable benefit year pursuant to Section 1501P of the Act, there must be a specific allegation that the employer provided during the applicable benefit year substantially the same part-time work as he did during the base period of the claimant, in determining whether the part-time work is substantially the same as provided in the base period consideration shall be given to the number of hours worked and the amount of wages earned. The employer must furnish information to support the allegations, which may include a record of earnings and working hours in each calendar week following the initial claim during the period covered by the Statement of Benefit Wages (Ben-118) and an equivalent record showing that earnings and working hours are on the same basis and substantially the same amount during the base period of the claimant while performing services for the employer.

c) An Application which fails to meet the criteria in subsection (b)(1) thru (4) shall be ruled insufficient and the Director shall serve notice of such ruling and the basis therefor upon the employer. The ruling shall be final and conclusive unless the employer files, within 20 days of the date of mailing of the ruling, a written objection or a revised Application for Revision of the Statement of Benefit Wages or Statements of Benefit Charges, specifically responding to the reasons the original Application was ruled insufficient. The written objection or revised Application shall be reviewed and, if sufficient, an order issued. An employer disagreeing with such order may appeal

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to a Director's Representative under Subpart C of this Part if such appeal is taken within 20 days of the date of mailing of the order. If the written objection or revised Application is still found to be insufficient, it shall again be ruled insufficient, and such ruling shall be final and subject to review under the State's Administrative Review Law (44 Ill. Rev. Stat. 1987, ch. 110, pars. 3-110 et seq.) (735 ILCS 5).

1) Where an employer alleges that benefit-wages should have been transferred from such employer's account to the next subsequent employer pursuant to Section 1501P of the Act, reference must be made to, and a copy furnished of, the Notice of Claims Adjudicator's Decision (Ben-135) or the Director's Decision which is the basis for the requested transfer.

A) No transfer of benefit-wages may be initiated through an Application for Revision of Statement of Benefit Wages, but must be requested from the Claims Adjudicator at the local office where the claim was filed.

B) If an employer has previously submitted a request for transfer of benefit-wages with the local office, it should resubmit the request with proof of filing the original request.

2) Where an employer alleges that a claimant was not an unemployed individual under Section 239 of the Act during a period when such claimant was paid benefits, no relief shall be available under Section 1508 of the Act, but the matter shall be referred to the local office where the claimant last filed a claim for benefits for an investigation to which such employer shall be a party. If the claimant is determined ineligible, appropriate relief will be granted to such employer under Section 706 of the Act.

23) Where an employer alleges that his Statement of Benefit Charges is incorrect because it is not the chargeable employer pursuant to Section 1502.1 of the Act, such Application must contain a reference to and a copy of the decision which reverses the claims adjudicator and holds that the employer is not the chargeable employer. Unless the employer has filed a timely request for reconsideration to the decision that the claims adjudicator has found it to be the chargeable employer, pursuant to 56 Ill. Adm. Code 2765.325, or 2765.326 or 2765.329, such employer shall not be entitled to a revision of its "Statement of Benefit Charges".

d) Upon receipt of a sufficient Application, the Application shall be ordered allowed or denied in whole or in part and notice of such order stating the basis therefor shall be mailed to the employer. Such application will be allowed in part and denied in part where the employer has contested multiple benefit-wages or benefit charges but has made sufficient allegations on some but not all. Such order shall become final and conclusive at the expiration of 20 days from the date of mailing of such order, unless the employer shall have filed a Petition specifying its objections thereto.

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- e) Where the allegation in the Application is lack of notice of determination or reconsidered determination and the ineligibility of the claimant for a specific reason, such employer shall be sent either a copy of the original determination or reconsidered determination, as may be applicable, and if the allegation of lack of notice proves to be true, the period for filing a timely appeal under Section 800 of the Act and 56 Ill. Adm. Code 2720, Subpart C shall begin from the date of mailing of the copy of the determination or reconsidered determination.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 2725.105 Application For Review Of Rate Determination

- a) An Application for Review of Rate Determination must be filed at the address on the Notice of Contribution Rate Determination within 15 days of the mailing of the Notice of Contribution Rate Determination to the employer.

- b) A sufficient Application shall set forth the following:

- 1) If the rate determination is based in whole or in part on erroneous benefit--wages--or--erroneous benefit charges, the Application must allege:

- A) The employer was not served with a Statement of Benefit Wages--or--a--Statement--of Benefit Charges containing the benefit--wages--or benefit charges used in the calculation of the employer's contribution rate; or

- B) The employer has received an order or decision allowing an adjustment of the benefit--wages--or--an--adjustment--of--the benefit charges used in calculating the employer's contribution rate. A copy of such order or decision must be attached to the application.

- 2) If a determination or decision allowing the payment of benefits has finally been reversed or modified and the benefit--wages--or benefit charges resulting from such benefit payment were not revised in accordance with the provisions of Section 706 of the Act, the employer shall provide a copy of such final reconsidered finding, reconsidered determination or decision.

- 3) If the employer has not been credited with payment--of--the--full amount--of--contributions--paid--to--the--Director--in--accordance--with Section--503--of--the--Act--the--employer--shall--state--the--exact amount--of--contributions--and--the--date--such--contributions--were paid--the--calendar--quarter--to--which--the--payment--relates--and/or the--exact--amount--of--wages--for--insured--work--for--which contributions--were--paid--to--the--Director.

- 4) If the employer alleges--that--its--payment--of--contributions, interest--or--penalties--was--not--applied--in--accordance--with--56--Ill--Adm--Code--2765--45--it--must--provide--evidence--of--its--request--for

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specific-application-of-the-payment-

EXAMPLE:--An--employer--tendered--a--payment--of--\$100.00--which the--Agency--applied--to--the--earliest--unpaid--quarter--of--the employer--if--the--employer--alleges--that--this--payment--should have--been--applied--to--a--different--quarter--it--shall--provide evidence--that--at--the--time--the--payment--was--tendered--it indicated--the--period--to--which--the--payment--was--to--apply.

- 35) If the Agency has made a mathematical error, the employer shall provide a detailed, clear statement showing the correct calculations.

- 46) If the employer alleges that the provisions of Section 1507 of the Act have been erroneously applied, the employer must show that it complied with 56 Ill. Adm. Code 2760.105(b), if applicable, and shall provide a statement of whether the employer has succeeded to substantially all or to a distinct severable portion of the employing enterprises of a predecessor, or whether a successor has succeeded to substantially all or a distinct severable portion of the employer's employing enterprises, and the factual basis for such statements.

- 57) If the employer alleges an incorrect Standard Industrial Classification code, a statement of the employer's primary activity and the factual basis for such statement.

- 58) If the employer alleges that it has not been credited with the full amount of wages for insured work subject to the payment of contributions that it reported, it shall state the exact amount of such wages and the quarters for which such wages were reported and shall provide a copy of its "Employer's Contribution and Wage Report" (see 56 Ill. Adm. Code 2760.25) and any forms, Social Security Number Correction and Name Change Notice, used to report additional wages for the same quarters (see 56 Ill. Adm. Code 2760.145).

- c) An Application which does not specify the factual basis for relief sought, or does not contain the information required by the applicable Section of this Part, shall be ruled insufficient. The ruling shall be final and conclusive unless the employer files, within 10 days of the date of mailing of such ruling, a written objection or revised Application, specifically responding to the reasons the original Application was ruled insufficient. The written objection or revised Application shall be reviewed and an order allowing or denying relief issued.

- 3) If the Application is sufficient, the Agency shall investigate the allegations in the Application based on agency records and any documents supplied by the employer. The Agency shall issue a written order with reasons denying the Application or allowing the Application in whole in part.

- e) An employer disagreeing with the order may appeal to a Director's Representative under Subpart C of this Part.

- f) If the basis for review of the rate determination is a pending benefit

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~~wage--or~~ benefit charge matter, such matter is not a basis for relief under this Section, but rather the employer's remedy is pursuant to Section 1508 of the Act and Section 2725.100 of this Part. If the ~~benefit--wages--or~~ benefit charges are modified or cancelled, as appropriate, through the operation of Section 2725.100 of this Part, appropriate relief will be granted through the operation of Section 1508 and 1509 of the Act.

EXAMPLE: While review of a ~~benefit--wage--or--a~~ benefit charge matter is pending, the employer receives a Notice of Contribution Rate Determination based on the contested ~~benefit--wages--or~~ benefit charges. This employer's pending Application for Revision of Statement of ~~Benefit--Wages--or--Statement--of~~ Benefit Charges shall be deemed to be an Application for Review of that portion of its rate based on the contested Statement. If such employer prevails on the Application for Review of ~~Benefit--Wages~~ or Statement of Benefit Charges, its ~~benefit--wage--or~~ benefit ratio shall be modified accordingly and, if this results in a change to his rate, a revised Notice of Contribution Rate Determination will be issued.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 2725.110 Protest Of Determination And Assessment

- a) A Protest of a Determination and Assessment must be filed in the form of a Petition at the address shown on the Determination and Assessment within 20 days of service.
- b) A sufficient Petition shall set forth the specific part of the Determination and Assessment with which the employing unit disagrees and the specific legal and factual basis for the disagreement and, in the specific situations described in this subsection (b), will state the following:
 - 1) If the employing unit ~~employer~~ alleges that it has paid all or part of the amount assessed; the exact amount of the contributions, penalties and interest paid, if any, the date[s] paid and the quarter[s] to which the payment[s] relate[s]; or-
 - 2) If the employing unit ~~employer~~ alleges that the ~~Determination~~ ~~determination~~ and Assessment ~~assessment~~ is erroneous because of clerical error; the specific nature of the clerical error; or-
 - 3) If the employing unit ~~employer~~ claims one or more persons whose wages are the basis of the ~~Determination~~ ~~determination~~ and Assessment ~~assessment~~ were not in employment; the names, addresses, and Social Security account numbers of such persons, the nature of the services performed, if any, and the reasons the person or persons are ~~is~~ not considered in employment; or-
 - 4) If the employing unit ~~employer~~ alleges that it is not an employer subject to the Act; the reasons for that allegation and

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supporting facts.

- c) An employing unit which files a Petition that does not contain the information required by subsection (b) shall be notified of the insufficiency and given 20 days from the date of mailing of such notice to revise the Petition or file objections to the notice. If, within the 20 day period, a revised Petition or objections responding to the notice are filed and the Petition or revised Petition is still determined to be insufficient, the revised Petition or original Petition and objections, as the case may be, shall be adjudicated under Subpart C of this Part. If, within the 20 day period, no further documents are filed, the Petition shall be ruled insufficient and such ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the State's Administrative Review Law [735 ILCS 5/Art. III].

- d) An employing unit which files a Petition, but not within the time prescribed, shall be notified of its untimeliness and given 20 days from the date of mailing of such notice to submit further information or objections to the notice of untimeliness. If, within the 20 day period, such information or objections are filed but do not sufficiently respond to the notice of untimeliness, the Petition shall be adjudicated under Subpart C. If, within the 20 day period, no such information or objections are filed, the Petition shall be ruled untimely and such ruling, notice of which shall be provided to the employing unit, shall be final and subject to review under the State's Administrative Review Law [735 ILCS 5/Art. III].

- e) Except as provided in subsection (f), if the Petition is sufficient and timely, the Agency shall investigate the allegations in the Petition based upon Agency records and any documents supplied by the employing unit. If the Agency determines that the Petition should be allowed, the Agency shall cancel the Determination and Assessment by written order. If the Agency determines that the Petition should be allowed in part and denied in part, the Agency shall modify the Determination and Assessment by written order, with reasons for the partial denial. An employing unit disagreeing with the Order to Modify the Determination and Assessment may file a Petition to the Modified Determination and Assessment as provided in subsections (a) and (b). If the Agency determines that the Determination and Assessment should be affirmed, the Petition shall be adjudicated under Subpart C of this Part.

- f) If an employing unit files a timely and sufficient Petition in response to a Modified Determination and Assessment issued under subsection (e) or a Determination and Assessment which is issued as a result of an audit, such Petition shall be adjudicated under Subpart C of this Part.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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Section 2725.120 Application For Cancellation Of ~~Benefit--Wages--or~~ Benefit Charges Due To Lack Of Notice

- a) An Application for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges due to lack of notice made pursuant to Section 1508.1 of the Act shall be sufficient only if the following requirements are met:

- 1) The employer has also filed a timely and sufficient Application for Revision of Statement of ~~Benefit--Wages--or--Statement-of~~ Benefit Charges, as provided in Section 2725.100; and
- 2) The employer specifically alleges in its Application for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges that the Agency did not issue one or more of the following Notices within the required time period:

A) A "Notice to Last Employer, Last Employing Unit or Other Interested Party," (See 56 Ill. Adm. Code 2720.30(a)(1)) within 180 days after of the date of the initial Finding; or

B) A "Notice of Determination" (BEN-134) (See 56 Ill. Adm. Code 2720.140(a)) under Section 702 of the Act within 180 days after of the employer's timely "Notice of Possible Ineligibility" (BIS-22), or letter in lieu thereof, (see 56 Ill. Adm. Code 2720.130), or, in the case of a remanded Decision regarding the sufficiency of the employer's protest under Section 702 of the Act, within 180 days after of the remanded Decision; or

C) In the case of a "Notice of Determination" (BEN-134) issued under Section 702 of the Act, in which an issue was not adjudicated at the time of the employer's timely "Notice of Possible Ineligibility" (BIS-22), or letter in lieu thereof, because of the individual's failure to file a claim for a week of benefits, within 180 days after of the date on which the individual first files a claim for a week of benefits; or

D) A "Notice of Reconsideration of Findings" (BIS-305) or "Notice of Reconsideration of Determination" (BEN-134), within 180 days after of the date of reconsideration; or

E) A "Notice of Director's Decision" (AR-56) (See 56 Ill. Adm. Code 2720.270), which allows benefits within 180 days after of the date that the appeal was received by the Agency; or

F) Under Section 604 of the Act, a "Notice of Director's Decision" within 180 days after of the date of the report and Recommended Decision of the Director's Representative; or

G) With respect to the notice of a decision that the employer is a chargeable employer, pursuant to 56 Ill. Adm. Code 2765, within 180 days after of the employer's protest or appeal of such a decision.

- b) A citation to Section 1508.1 of the Act or this Section of the Rules

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need not be made in the Application, nor is it necessary to specifically allege the failure of the Agency to act within 180 days.

Example: The employer meets the requirements of subsection (a)(1) and alleges that the Agency failed to respond to its timely "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof by issuing a "Notice of Determination" (BEN-134). If the Agency finds that the allegations contained in the employer's Application for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges are true, and 180 days have elapsed since the employer's "Notice of Possible Ineligibility" (BIS-22) or letter in lieu thereof, then the ~~Benefit--Wages--or--the~~ benefit charges in question will be cancelled.

- c) The Application for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges can be made a part of an Application for Revision of Statement of ~~Benefit--Wages--or--Statement--of~~ Benefit Charges provided that the requirements of subsection (a)(2) are satisfied.

d) An Application for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges will be denied if an Application for Revision of Statement of ~~Benefit--Wages--or--Statement-of~~ Benefit Charges regarding the same ~~Benefit--Wages--or--the same~~ benefit charges and based on the same allegation has already been denied.

e) The cancellation of ~~Benefit--Wages--or--the cancellation-of~~ benefit charges will be allowed if it is proven by the employer that:

- 1) The employer meets the definition of a "party" under 56 Ill. Adm. Code 2720.1; and
- 2) The Agency failed to issue one or more of the "Notices", as set forth in subsection (a)(2); and
- 3) The employer has satisfied the requirements of Section 1508 of the Act; and
- 4) The Agency's actions directly resulted in the payment of benefits to an individual and hence caused ~~the--individual's--wages--to become--Benefit--Wages--or~~ benefit charges in accordance with the provisions of Sections 1501, 1501.1, 1502 and 1502.1 of the Act.

For the purposes of this Section, the Agency's actions "directly resulted" in the payment of benefits where the Agency fails to respond to a timely, where required, notice from an employer within the time limits set in subsection (a)(2).

Example 1: The employer files a late appeal to the Referee (after expiration of the 30 day appeal period set forth by Section 800 of the Act). Even if the Agency fails to rule on the employer's appeal within 180 days from the date the appeal is filed, the employer's ~~Benefit--Wages--or~~ benefit charges will not be cancelled, as the Agency's failure to rule on an issue over which the Referee has no jurisdiction cannot "directly result" in the payment of benefits. This result would be different if the employer proves that its appeal was filed in a timely manner.

Example 2: The employer files a timely "Notice of Possible

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Ineligibility" (BIS-22) or letter in lieu thereof to which the Agency makes no response within 180 days. Even if the claimant is found to be eligible for benefits, these ~~benefit~~ wages--or benefit charges will be subject to cancellation if the other requirements of this Section are met.

- f) All of the provisions of Section 1508 of the Act and Section 2725.100 of this Part, applicable to Applications for Revision of ~~Statement-of Benefit-Wages-or~~ Statements of Benefit Charges and not inconsistent with the provisions of Section 1508.1 of the Act and this Section, shall apply to Applications for Cancellation of ~~Benefit--Wages--or~~ Benefit Charges under Section 1508.1 of the Act.

Example: The employer must file its timely Application for Revision of Statement of ~~Benefit-Wages-or--Statement--of~~ Benefit Charges in response to a Statement of ~~Benefit-Wages-or~~ Statement of Benefit Charges. If any ~~benefit-wages-or~~ benefit charges are allowed by the employer to become final, it cannot later request that the ~~benefit-wages-or~~ benefit charges be cancelled due to its subsequently meeting the requirements of Section 1508.1 of the Act.

- g) ~~All--of-the-provisions-of-the-Act-and-this-Part-applicable-to-Protests and-Petitions-for-Hearings-conducted-pursuant-to-Section-2200--of--the Act--and-not-inconsistent-with-the-provisions-of-Section-1508.1--of-the Act--and--this-Section--shall--be--applicable--to--Applications--for Cancellation-of-Benefit-Wages-or-Benefit-Charges.~~

(Source: Amended at 19 Ill. Reg. _____, effective _____)

SUBPART C: APPEALS TO DIRECTOR'S REPRESENTATIVE

Section 2725.200 Filing Of Appeal

- a) An employing unit employer may appeal an order or Determination ~~determination~~ and Assessment ~~assessment~~ of the Director by filing a written Petition. The Petition should be filed at the address shown on the order or Determination ~~determination~~ and Assessment ~~assessment~~ being appealed. The Petition must be filed within 20 days after the Director's order of Determination ~~determination~~ and Assessment ~~assessment~~ was served on the employing unit employer, except for orders on Application for review of rate determinations, which must be filed within 10 days of the date of service.
- b) No special form is necessary to file a Petition. However, in addition to the requirements of Section 2725.25, the following must be included:

- 1) The Petition must be in writing, dated and signed by the employing unit petitioner ~~petitioner~~ appealing or its agent;
- 2) The Petition must set forth the specific parts of the order or Determination ~~determination~~ and Assessment ~~assessment~~ with which

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the employing unit petitioner ~~petitioner~~ disagrees and the specific legal and factual basis for that disagreement.

- c) The employing unit petitioner ~~petitioner~~ may request a pre-hearing conference.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Definitions and General Provisions2) Code citation: 35 Ill. Adm. Code 2113) Section numbers: Proposed action:211.7150
Amendment4) Statutory authority: 415 ILCS 5/9, 9.1, 10, 27 and 28.5.5) A complete description of the subjects and issues involved:

A more detailed description is contained in the Board's proposed opinion of July 7, 1995, in R95-16, which opinion is available from the address below. Section 9.1(e) of the Environmental Protection Act [415 ILCS 5/9.1(e)] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] shall not apply. Because this rulemaking is not subject to Section 5-35 of the IAPA, it is not subject to first notice or to second notice review by JCAR.

This rulemaking updates the Illinois definition of volatile organic material (VOM) to correspond with amendments to the federal definition of volatile organic compound (VOC, essentially the same material) adopted by U.S. EPA which appeared in the Federal Register during the period January 1 through June 30, 1995. During this period, U.S. EPA amended its regulations as follows:

60 Fed. Reg. 31633 (June 16, 1995) adding one compound to the list of those exempted.

U.S. EPA added acetone to the list of chemical species that are exempted from the definition of VOM and, hence, are exempted from regulation for control of ozone precursors. Alternative names for this compound are 2-propanone and dimethylketone. The Board is expediting its adoption of these amendments at the written request of the Illinois EPA and a member of the regulated community.

The Board has incorporated the federal amendments of June 16, 1995 with only minor deviation from the added federal text. The Board has parenthetically added the alternative names for acetone (i.e., "2-propanone" and "dimethylketone") in the listing for this material.

6) Will this proposed rule replace an emergency rule currently in effect? No.

7) Does this rulemaking contain an automatic repeal date? No.

8) Do these proposed amendments contain incorporations by reference? No.
Although the pre-existing text of Section 211.7150 includes incorporations

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of federal regulations by reference, none of those incorporations are affected by these amendments.

9) Are there any other amendments pending on this Part? No.10) Statement of statewide policy objectives:

This rulemaking is mandated by Section 9.1(e) of the Environmental Protection Act. The statewide policy objectives are set forth in Section 8 of that Act. This rulemaking would not impose a mandate on units of local government. Rather, this proceeding could relax an existing mandate to the extent that any unit of local government may be involved in the emission of acetone in such a way that it is subject to the volatile organic material emissions regulations.

11) Time, place and manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R95-16 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

The Board will conduct a public hearing on these proposed amendments, as required by section 110 of the federal Clean Air Act, 42 U.S.C. 7410, because this proceeding would entail a state implementation plan (SIP) revision. The hearing has not yet been scheduled, but the hearing officer will issue an order setting the time and location for the hearing. All persons on the notice list for this matter will receive a copy of that order.

For further information, contact the hearing officer, Michael J. McCambridge, at 312-814-6924.

12) Initial regulatory flexibility analysis:A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: April 24, 1995.B) Types of small businesses affected:

The existing rules and proposed amendments affect small businesses

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that engage in activities that cause the emission of VOM, more specifically, the affected entities that emit the single compound and single class of compounds to which the new exemptions will apply. Emissions of these materials will no longer be considered as emissions of VOM, so that they will no longer be subject to VOM emission limitations and monitoring, recordkeeping, and reporting requirements.

- C) Reporting, bookkeeping or other procedures required for compliance:
The existing rules and proposed amendments require extensive reporting, bookkeeping, and other procedures, including the preparation of annual reports, emissions analyses, and maintenance of operating records. Emissions of these materials will no longer be considered as emissions of VOM, so that they will no longer be subject to VOM emission limitations and monitoring, recordkeeping, and reporting requirements.
- D) Types of professional skills necessary for compliance:
Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer.

- 13) Regulatory Agenda on which this rulemaking was summarized: January, 1995
The full text of the proposed amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
211.101	Incorporations by Reference
211.102	Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	
211.121	Other Definitions
211.122	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.210	Actual Heat Input
211.230	Adhesive
211.240	Adhesion Promoter
211.250	Aeration
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment
211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.490	Annual Grain Through-Put
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile

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211.630	Automobile or Light-Duty Truck Assembly	Source or Automobile or
	Light-Duty Truck Manufacturing Plant	
211.650	Automobile or Light-Duty Truck Refinishing	
211.660	Automotive/Transportation Plastic Parts	
211.670	Baked Coatings	
211.680	Bakery Oven	
211.685	Basecoat/Clearcoat System	
211.690	Batch Loading	
211.695	Batch Operation	
211.696	Batch Process Train	
211.710	Bead-Dipping	
211.730	Binders	
211.750	British Thermal Unit	
211.770	Brush or Wipe Coating	
211.790	Bulk Gasoline Plant	
211.810	Bulk Gasoline Terminal	
211.820	Business Machine Plastic Parts	
211.830	Can	
211.850	Can Coating	
211.870	Can Coating Line	
211.890	Capture	
211.910	Capture Device	
211.930	Capture Efficiency	
211.950	Capture System	
211.970	Certified Investigation	
211.980	Chemical Manufacturing Process Unit	
211.990	Choke Loading	
211.1010	Clean Air Act	
211.1050	Cleaning and Separating Operation	
211.1070	Cleaning Materials	
211.1090	Clear Coating	
211.1110	Clear Topcoat	
211.1130	Closed Purged System	
211.1150	Closed Vent System	
211.1170	Coal Refuse	
211.1190	Coating	
211.1210	Coating Applicator	
211.1230	Coating Line	
211.1250	Coating Plant	
211.1270	Coil Coating	
211.1290	Coil Coating Line	
211.1310	Cold Cleaning	
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211.1350	Component	
211.1370	Concrete Curing Compounds	
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211.1410	Condensate	
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211.1470	Continuous Process	
211.1490	Control Device	
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211.1570	Crude Oil	
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211.1650	Cutback Asphalt	
211.1670	Daily-Weighted Average VOM Content	
211.1690	Day	
211.1710	Degreaser	
211.1730	Delivery Vessel	
211.1750	Dip Coating	
211.1770	Distillate Fuel Oil	
211.1780	Distillation Unit	
211.1790	Drum	
211.1810	Dry Cleaning Operation or Dry Cleaning Facility	
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211.1850	Effective Grate Area	
211.1870	Effluent Water Separator	
211.1875	Elastomeric Materials	
211.1880	Electromagnetic Interference/Radio Frequency (EMI/RFI) Shielding	
	Coatings	
211.1890	Electrostatic Bell or Disc Spray	
211.1900	Electrostatic Prep Coat	
211.1910	Electrostatic Spray	
211.1920	Emergency or Standby Unit	
211.1930	Emission Rate	
211.1950	Emission Unit	
211.1970	Enamel	
211.1990	Enclose	
211.2010	End Sealing Compound Coat	
211.2030	Enhanced Under-the-Cup Fill	
211.2050	Ethanol Blend Gasoline	
211.2070	Excess Air	
211.2090	Excessive Release	
211.2110	Existing Grain-Drying Operation	
211.2130	Existing Grain-Handling Operation	
211.2150	Exterior Base Coat	
211.2170	Exterior End Coat	
211.2190	External Floating Roof	
211.2210	Extreme Performance Coating	
211.2230	Fabric Coating	
211.2250	Fabric Coating Line	
211.2270	Federally Enforceable Limitations and Conditions	
211.2290	Fermentation Time	

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211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
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211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3480	Loading Event
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3990	New Grain-Drying Operation

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211.4010	New Grain-Handling Operation
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4290	Oven
211.4310	Overall Control
211.4330	Overvornish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process

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211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Purged Process Fluid
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argon Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet

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211.5650 Ringelmann Chart
 211.5670 Roadway
 211.5690 Roll Coater
 211.5710 Roll Coating
 211.5730 Roll Coating
 211.5750 Roll Printing
 211.5770 Rotogravure Printing
 211.5790 Rotogravure Printing Line
 211.5810 Safety Relief Valve
 211.5830 Sandblasting
 211.5850 Sanding Sealers
 211.5870 Screening
 211.5890 Sealer
 211.5910 Semi-Transparent Stains
 211.5930 Sensor
 211.5950 Set of Safety Relief Valves
 211.5970 Sheet Basecoat
 211.5980 Sheet-Fed
 211.5990 Shotblasting
 211.6010 Side-Seam Spray Coat
 211.6025 Single Unit Operation
 211.6030 Smoke
 211.6050 Smokeless Flare
 211.6060 Soft Coat
 211.6070 Solvent
 211.6090 Solvent Cleaning
 211.6110 Solvent Recovery System
 211.6130 Source
 211.6140 Specialty Coatings
 211.6145 Specialty Coatings for Motor Vehicles
 211.6150 Specialty High Gloss Catalyzed Coating
 211.6170 Specialty Leather
 211.6190 Specialty Soybean Crushing Source
 211.6210 Splash Loading
 211.6230 Stack
 211.6250 Stain Coating
 211.6270 Standard Conditions
 211.6290 Standard Cubic Foot (scf)
 211.6310 Start-Up
 211.6330 Stationary Emission Source
 211.6350 Stationary Emission Unit
 211.6355 Stationary Gas Turbine
 211.6360 Stationary Reciprocating Internal Combustion Engine
 211.6370 Stationary Source
 211.6390 Stationary Storage Tank
 211.6400 Stencil Coat
 211.6410 Storage Tank or Storage Vessel
 211.6430 Styrene Devolatilizer Unit

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211.6450 Styrene Recovery Unit
 211.6470 Submerged Loading Pipe
 211.6490 Substrate
 211.6510 Sulfuric Acid Mist
 211.6530 Surface Condenser
 211.6540 Surface Preparation Materials
 211.6550 Synthetic Organic Chemical or Polymer Manufacturing Plant
 211.6570 Tablet Coating Operation
 211.6580 Texture Coat
 211.6590 Thirty-Day Rolling Average
 211.6610 Three-Piece Can
 211.6620 Three or Four Stage Coating System
 211.6630 Through-the-Valve Fill
 211.6650 Tooling Resin
 211.6670 Topcoat
 211.6690 Topcoat Operation
 211.6695 Topcoat System
 211.6710 Touch-Up
 211.6720 Touch-Up Coating
 211.6730 Transfer Efficiency
 211.6750 Tread End Cementing
 211.6770 True Vapor Pressure
 211.6790 Turnaround
 211.6810 Two-Piece Can
 211.6830 Under-the-Cup Fill
 211.6850 Undertread Cementing
 211.6860 Uniform Finish Blender
 211.6870 Unregulated Safety Relief Valve
 211.6880 Vacuum Metallizing
 211.6890 Vacuum Producing System
 211.6910 Vacuum Service
 211.6930 Valves Not Externally Regulated
 211.6950 Vapor Balance System
 211.6970 Vapor Collection System
 211.6990 Vapor Control System
 211.7010 Vapor-Mounted Primary Seal
 211.7030 Vapor Recovery System
 211.7050 Vapor Suppressed Polyester Resin
 211.7070 Vinyl Coating
 211.7090 Vinyl Coating Line
 211.7110 Volatile Organic Liquid (VOL)
 211.7130 Volatile Organic Material Content (VOMC)
 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
 211.7170 Volatile Petroleum Liquid
 211.7190 Wash Coat
 211.7210 Wastewater (Oil/Water) Separator
 211.7230 Weak Nitric Acid Manufacturing Process
 211.7250 Web

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211.7270 Wholesale Purchase - Consumer
 211.7290 Wood Furniture
 211.7310 Wood Furniture Coating
 211.7330 Wood Furniture Coating Line
 211.7350 Woodworking
 211.7400 Yeast Percentage

APPENDIX A Rule into Section Table
 APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 10, 27 and 28.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. _____, effective _____.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

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NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

SUBPART B: DEFINITIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

methane;

ethane;

methylene chloride (dichloromethane), 1,1,1-trichloroethane (methyl chloroform);

1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113);

trichlorofluoromethane (CFC-11);

dichlorodifluoromethane (CFC-12);

chlorodifluoromethane (CFC-22);

trifluoromethane (FC-23);

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);

chloropentafluoroethane (CFC-115);

1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);

1,1,1,2-tetrafluoroethane (HFC-134a);

1,1-dichloro-1-fluoroethane (HCFC-141b);

1-chloro-1,1-difluoroethane (HCFC-142b);

2-chloro-1,1,2-tetrafluoroethane (HCFC-124);

pentafluoroethane (HFC-125);

1,1,2,2-tetrafluoroethane (HFC-134);

1,1,1-trifluoroethane (HFC-143a);

1,1-difluoroethane (HFC-152a); and

perfluorocarbon parachlorobenzotrifluoride (PCBTF);

cyclic, branched, or linear completely-methylated siloxanes; acetone (2-propanone or dimethylketone);

and perfluorocarbon compounds which fall into these classes:

1) Cyclic, branched, or linear, completely fluorinated alkanes;

2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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- b) For purposes of determining VOM emissions and compliance with the emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR Part 60, Appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112 and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued pursuant to a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR Part 51, Subpart I or Appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR Part 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusions is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) above.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Crisis Assistance
- 2) Code Citation: 89 Ill. Adm. Code 116
- 3) Section Number: Proposed Action:
116.400 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: In accordance with federal regulations, these proposed amendments make changes in the eligibility criteria for the Department's Crisis Assistance Programs. As a result of this rulemaking, crisis assistance will only be provided if the destitution or need did not arise from a refusal without good cause to accept employment or training for employment.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to Judy Umunna, Bureau of Rules and Regulations, Illinois Department of Public Aid, 100 South Grand Ave. E., 3rd Floor, Springfield, Illinois 62762 (Phone: (217) 524-3215). The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for

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compliance: None

C) Types of professional skills necessary for compliance: None

- 13) This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 116
CRISIS ASSISTANCE

Section	Incorporation By Reference
116.10	Crisis Assistance Programs
116.400	Special Assistance Program
116.500	Emergency Assistance Program
116.510	Hardship Program (Repealed)

AUTHORITY: Implementing Articles III, IV, and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV and VI and 12-13].

SOURCE: Filed and effective December 30, 1977; amended at 4 Ill. Reg. 13, p. 1287, effective March 17, 1980; amended at 5 Ill. Reg. 12722, effective October 28, 1981; codified at 7 Ill. Reg. 5195; emergency amendment at 9 Ill. Reg. 18154, effective November 15, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 11027, effective June 11, 1986; amended at 11 Ill. Reg. 6487, effective March 17, 1987; amended at 12 Ill. Reg. 14207, effective August 30, 1988; amended at 13 Ill. Reg. 3847, effective March 10, 1989; amended at 14 Ill. Reg. 16970, effective September 30, 1990; amended at 15 Ill. Reg. 16719, effective November 1, 1991; emergency amendment at 15 Ill. Reg. 16772, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5350, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 13961, effective September 1, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1078, effective January 15, 1993; amended at 17 Ill. Reg. 19189, effective October 25, 1993; amended at 19 Ill. Reg. 7895, effective June 5, 1995; amended at 19 Ill. Reg. _____, effective _____.

Section 116.400 Crisis Assistance Programs

- a) The Department administers Crisis Assistance Programs which include the Special Assistance Program and the Emergency Assistance Program.
- b) The following groups of families are eligible for the Special Assistance and Emergency Assistance Programs:
 - 1) Families that receive aid to families with dependent children (AFDC) financial assistance or who meet all the eligibility criteria of the AFDC program (see 89 Ill. Adm. Code 112) (Section 4-12 of the Illinois Public Aid Code--~~Ill-Rev-Stat--1991--ch-237-part-4-12~~ [305 ILCS 5/4-12]);
 - 2) Families ~~families~~, ineligible for AFDC financial assistance, that contain a child under age 21 and meet the financial eligibility criteria of the AFDC program. However, families ineligible for

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- AFDC are not eligible for Special Assistance for non-medical needs related to essential medical care;
- 3) *Pregnant women whose pregnancy has been medically confirmed who would be eligible for the AFDC program if the child were born (Section 4-12 of the Illinois Public Aid Code;---iii;---Rev;---Stat; 1991;--ch--23;--par--4-12 [305 ILCS 5/4-12]); and*
- 4) Children and families who receive services from the Department of Children and Family Services (DCFS).
- c) Assistance provided through any of the Crisis Assistance Programs shall not be considered as income in computing the regular assistance grant.
- d) Assistance is provided only if the destitution or need did not arise from a refusal without good cause to accept employment or training for employment.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Demonstration Programs
- 2) Code Citation: 89 Ill. Adm. Code 170
- 3) Section Numbers: Proposed Action:
170.360 New Section
170.370 New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1991, ch. 23, par. 12-13) [305 ILCS 5/12-13] and P. A. 89-6.
- 5) Complete Description of the Subjects and Issues Involved: In accordance with provisions of Public Act 89-6 and to help move people toward self-sufficiency and to support clients in their efforts to achieve employment goals, the Department is implementing two new initiatives. These proposed amendments establish the Get a Job Initiative and the Targeted Work Initiative.

Get a Job Initiative

All new applicants whose youngest child is age 5 through 12 will be automatically enrolled in Job Search for six months. The Get a Job Initiative immediately places employable AFDC clients with children ages 5 through 12 in job search activities to get them into the work force quickly. Clients must have a high school diploma or equivalent or a recent work history. They can search for work while their children are in school.

At approval, clients will complete six months of job search activities as a condition of eligibility. With the help of JOBS and casework staff, clients will use a variety of methods to find employment and will report monthly, in person, their job search progress. If a client has not entered employment after the six months, he or she will be reassessed by JOBS staff and assigned to a work experience or training program as slots become available.

These proposed amendments provide that, unless they have good cause, GET A JOB participants must:

1. attend scheduled monthly job search meetings;
2. keep appointments with GET A JOB staff;
3. make a good faith effort to complete 20 employer contacts each month;
4. accept a bonafide offer of suitable employment; and

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5. maintain employment and not voluntarily reduce earnings.

This rulemaking establishes that each GET A JOB participant will receive a monthly job search allowance of \$20 to cover the cost of employer contacts including transportation, stamps, resumes, etc. In addition, payment for child care and initial employment expenses will also be provided. Clients who do not cooperate will be sanctioned by having the adult portion of their grant reduced.

Targeted Work Initiative

The Targeted Work Initiative will require AFDC recipients whose youngest child is age 13 or older to find work and stay employed as a condition of receiving welfare. Clients with at least a high school education must complete eight weeks of independent job search. Clients with less than a high school education will have the option to participate in job search, job training or a GED program.

If the eight-week job search fails, a caseworker-assisted job search will begin with specific job referrals being made. The client must accept the first offer or find an alternative. If still no job develops, the client will be placed on a Work First assignment and required to continue job search. If the client has not found a job after being on AFDC for a total of 24 months, cash benefits for the entire family will end for the same amount of time.

Receipt of cash assistance by Targeted Work Initiative participants will be limited to 24 months. Months in which the participant has earnings or is exempt will not count toward the 24 month limit. Beginning with the first month of the 24 month eligibility period, the addition to the household of a child under age 13 or the birth of a child more than 10 months later will not extend the 24 month period of eligibility.

After reaching the 24 month limit, the participant will be ineligible for cash assistance for a period of 24 months. When the participant is off AFDC cash assistance for 24 consecutive months, for any reason, the 24 month period of eligibility will start over.

Clients who do not accept employment will be sanctioned. Months during which the participant is sanctioned will count as part of the 24 month eligibility period if the participant would otherwise have received cash assistance.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
170.300	Amendment	July 7, 1995 (19 Ill. Reg. 8933)
170.350	New Section	July 21, 1995 (19 Ill. Reg. 10381)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Judy Umunna
Bureau of Rules and Regulations
Illinois Department of Public Aid
100 South Grand Ave. E., 3rd Floor
Springfield, IL 62762
(217) 524-3215

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) This rule was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER 9: DEMONSTRATION PROGRAMS

PART 170

DEMONSTRATION PROGRAMS

SUBPART A: THE FRESH START
WELFARE REFORM DEMONSTRATION PROGRAM

- Section 170.10 Youth Employment and Training Initiative
- 170.10 Paternal Involvement Project
- 170.20 Homeless Families Support Project
- 170.30 Family Responsibility Project
- 170.40 Income Budgeting Project

SUBPART B: THE CAREER ADVANCEMENT PROGRAM

- Section 170.100 The Career Advancement Program
- 170.110 Career Advancement Experimental and Control Groups
- 170.120 Career Advancement Participation Requirements of Experimental Group Members
- 170.130 Career Advancement Supportive Services for Experimental Group Members

SUBPART C: COMMUNITY GROUP PARTICIPATION PROGRAM

- Section 170.200 Community Group Participation Program

SUBPART D: EARNED INCOME INITIATIVE

- Section 170.250 Work Pays Demonstration

SUBPART E: FAMILY DEVELOPMENT PLAN

- Section 170.300 Truancy Prevention Project

SUBPART F: WORK AND RESPONSIBILITY DEMONSTRATION

Section

- 170.360 Get a Job Initiative
- 170.370 Targeted Work Initiative (TWI)

AUTHORITY: Implementing and authorized by Sections 4-8, 11-20, 12-13 and

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12-4.28 of the Illinois Public Aid Code [305 ILCS 5/4-8, 11-20, 12-13 and 12-4.28].

SOURCE: Adopted at 13 Ill. Reg. 14067, effective August 23, 1989; amended at 14 Ill. Reg. 19320, effective November 30, 1990; amended at 17 Ill. Reg. 19197, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19721, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3372, effective February 28, 1994; emergency amendment at 19 Ill. Reg. 645, effective January 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 7901, effective June 8, 1995; amended at 19 Ill. Reg. _____, effective _____.

SUBPART F: WORK AND RESPONSIBILITY DEMONSTRATION

Section 170.360 Get a Job Initiative

- a) The Department will operate GET A JOB as a statewide demonstration for four years beginning September 1, 1995, provided the required federal waivers are approved. The Auburn Park Local Office area will be designated as the research site where cases will be randomly assigned to an experimental or control group. Clients in the control group will not participate in GET A JOB.
- b) Selection of Participants
At the time AFDC cash assistance (Category 04 only) is approved, adults who are not exempt from participation in the AFDC JOBS Program and who meet the following criteria will be assigned to GET A JOB. Exemption reasons in 89 Ill. Adm. Code 112.71 apply except for remoteness. Nonexempt adults will be selected if:
 - 1) they are unemployed or employed and budgeted gross earnings are less than \$255 per month;
 - 2) their youngest child is age five through 12; and
 - 3) the adult:
 - A) has a high school diploma or GED;
 - B) has been employed within the last three months; or
 - C) is receiving Unemployment Insurance (UI) Benefits or has received UI within the last three months.

- c) AFDC JOBS Orientation and Assessment
 - 1) At application, potential GET A JOB participants will be identified during the AFDC eligibility interview. The eligibility worker will inform the client about the AFDC JOBS Program and explain GET A JOB participation requirements and available supportive services. The worker will provide the client with information and forms needed to begin participation in GET A JOB.
 - 2) The determination that the client meets the selection criteria for GET A JOB and the evaluation of the need for and arrangement of supportive services constitutes the initial AFDC JOBS assessment for GET A JOB participants.

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2) Participants will not be approved for education or training programs while in GET A JOB.

d) Participation Requirements

- 1) Unless they have good cause, participants must:
 - A) attend scheduled monthly job search meetings;
 - B) keep appointments with GET A JOB staff;
 - C) make a good faith effort to complete 20 employer contacts each month;

D) accept a bonafide offer of suitable employment; and
 E) maintain employment and not voluntarily reduce earnings.

2) Participants will remain in GET A JOB for six months or until they have budgeted earnings of at least \$255 per month, whichever comes first. Nonexempt participants will then be reassigned to other AFDC JOBS components as slots are available.

3) Participants will be placed in GET A JOB each time they are approved for AFDC cash assistance and meet the selection criteria.

e) Supportive Services

Supportive services will be provided to assist participants in their job search.

1) Each participant will receive a monthly job search allowance of \$20 to cover the cost of employer contacts including transportation, stamps, resumes, etc. No additional payment for these costs will be allowed.

2) Payment for child care and initial employment expenses will be provided, as needed, within the limits stated in 89 Ill. Adm. Code 112.82.

f) Sanctions

1) Conciliation will be attempted with participants who fail to meet participation requirements (see 89 Ill. Adm. Code 112.77).

2) When conciliation is unsuccessful, the following penalties will apply:

A) First sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate.
 B) Second sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate or for three months, whichever is longer.

C) Third sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate or for six months, whichever is longer.

D) Fourth (or more) sanction - The entire grant will be discontinued until the participant agrees to cooperate or for six months, whichever is longer.

3) When a participant refuses a bonafide offer of suitable employment, the entire grant will be discontinued until the participant becomes employed or for three months, whichever comes first. This action is independent of the four level progressive sanctions described in subsections (f)(2)(A) through (D) of this

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Section. It does not count in the progression or change the order of these four sanctions.

(Source: Added at 19 Ill. Reg. _____, effective _____)

Section 170.370 Targeted Work Initiative (TWI)

a) Demonstration Status

The Department will operate the Targeted Work Initiative (TWI) as a statewide demonstration for five years beginning February 1, 1996, provided the required federal waivers are approved. The Auburn Park Local Office area will be designated as the research site where cases will be randomly assigned to an experimental or control group.

Clients in the control group will be excluded from TWI.

b) Selection of Participants

AFDC and AFDC-U cash recipients whose youngest child is age 13 or older shall be required to participate in TWI and must seek and accept employment as part of the AFDC JOBS Program unless the recipient has earned income or is exempt for one of the following reasons (Other AFDC JOBS exemption reasons listed in 89 Ill. Adm. Code 112.71 do not apply to the TWI population):

1) Is temporarily ill or chronically ill.

A) An individual is temporarily ill when determined by the local office, on the basis of medical evidence (for example, a statement from a medical provider) or on another sound basis, that the illness or injury is serious enough to temporarily prevent the individual from engaging in employment or participating in JOBS. A sound basis for exemption from JOBS on a temporary basis includes but is not limited to: the observation of a cast on a broken leg or the client provides information of a scheduled surgery or recuperation from surgery. Minor ailments and injuries, such as colds, broken fingers or rashes are not serious enough normally to exempt the individual under this criterion.

B) An individual is chronically ill or incapacitated, as determined by the local office, when a physician or licensed or certified psychologist finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the individual from engaging in employment or participating in JOBS. This includes a 60 day period of recuperation after childbirth.

C) When an individual is determined either temporarily or chronically ill or incapacitated, the exemption shall continue until further action is taken by the Department. When the exemption is initially granted, the Department will establish a date as to when the condition warranting the

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exemption is expected to end or when review of the case will be reevaluated to determine whether the exempted individual continues to be exempt under the same procedures as for the initial determination of exemption with appropriate notice to the individual that the reevaluation is necessary.

- 2) The recipient provides full-time care for another household member due to that person's medical condition or incapacity.
- 3) Other AFDC JOBS exemption reasons listed in 89 Ill. Adm. Code 112.71 do not apply to the TWI population.

c) Time Limit on Receipt of Cash Assistance

- 1) Receipt of cash assistance by TWI participants shall be limited to 24 months. Months in which the participant has earnings or is exempt do not count toward the 24 month limit.
- 2) Beginning with the first month of the 24 month eligibility period, the addition to the household of a child under age 13 or the birth of a child more than 10 months later shall not extend the 24 month period of eligibility.

- 3) After reaching the 24 month limit, the participant shall be ineligible for cash assistance for a period of 24 months. When the participant is off AFDC cash assistance for 24 consecutive months, for any reason, the 24 month period of eligibility will start over.

d) Participation Requirements

During the 24 month eligibility period, participants must cooperate with the requirements of the AFDC JOBS Program as described in 89 Ill. Adm. Code 112.72. Participants who fail to cooperate shall be subject to sanction.

e) Sanctions

- 1) Conciliation (see 89 Ill. Adm. Code 112.77) will be attempted with participants who fail to meet participation requirements without good cause (see 89 Ill. Adm. Code 112.80).

2) When conciliation is unsuccessful, the following penalties will apply:

- A) First sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate.
- B) Second sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate or for three months, whichever is longer.
- C) Third sanction - The participant's needs will be removed from the grant until the participant agrees to cooperate or for six months, whichever is longer.
- D) Fourth (or more) sanction - The entire grant will be discontinued until the participant agrees to cooperate or for six months, whichever is longer.

- 3) When a participant refuses a bonafide offer of suitable employment (see 89 Ill. Adm. Code 112.72(a)(3) and (4)), the entire grant will be discontinued until the participant becomes employed or for three months, whichever comes first. This action

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is independent of the four level progressive sanctions described in subsections (e)(2)(A) through (D) of this Section. It does not count in the progression or change the order of these four sanctions.

- 4) Months during which the participant is sanctioned shall count as part of the 24 month eligibility period if the participant would otherwise have received cash assistance.

f) Component Assignments for TWI Participants

1) Initial Component Assignment

- A) Participants with a high school diploma, GED or recent work history will initially be required to complete eight weeks of independent Job Search followed by assisted Job Search.
- B) Participants who have neither a high school education nor recent work history will initially be given a choice of independent Job Search, Job Search plus job training or GED.

2) Work First

- A) Participants who have completed their appropriate component and have not become employed after 12 months will be assigned to Work First.
- B) Participants in Work First must work 60 hours per month in an assigned, subsidized work position. Their AFDC grant will be reduced by this amount (60 hours x minimum wage). They will be paid minimum wage, by the employer, for only the number of hours they actually work.

- C) Participants in Work First must also complete 20 hours of Job Search per month.

- D) Participants will be assigned to Work First until they find unsubsidized employment or for a maximum of six months, whichever comes first.

- E) Participation in Work First does not extend the 24 month eligibility period.

- F) The Department will develop Work First positions with private employers and will provide worker's compensation coverage for participants.

g) Supportive Services

Participants shall be provided all needed supportive services as described in 89 Ill. Adm. Code 112.82.

(Source: Added at 19 Ill. Reg. _____, effective _____)

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1) Heading of the Part:

Illinois Home Health Agency Code

2) Code Citation:

77 Ill. Adm. Code 245

3) Section Numbers:Proposed Action:

Amendments
245.20
Amendments
245.25
Amendments
245.30
Amendments
245.40
Amendments
245.50
Amendments
245.70

4) Statutory Authority:

Home Health Agency Licensing Act (210 ILCS 55)

5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 245 establish licensure requirements for home health agencies in Illinois.

Section 245.20 (Definitions) is being amended to add definitions for Act, Audiologist, and Podiatrist.

Section 245.25 (Incorporated and Referenced Materials) is being amended to include ILCS citations.

Section 245.30 (Organization and Administration) is amended to replace reference to a "public health nurse" with a requirement for completion of a baccalaureate degree program approved by the National League for Nursing and at least one year of nursing experience.

Section 245.40 (Staffing and Staff Responsibilities) is being amended to include references to services provided by podiatrists. The Department recognizes that it is appropriate for podiatrists to write orders for home health care services.

Section 245.50 (Services) includes the addition of references to services provided by podiatrists. Requirements for a continuing review of clinical records are changed from each 60 day to each 62 day period that a patient received home health services. A provision is added for the use of faxed copies of clinical records.

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Section 245.70 (Requirements for State Approved Home Health Aide Training Programs) is amended to bring training program requirements in line with the Department's nurse aide training rules in 77 Ill. Adm. Code 395. Provisions that duplicate those in Part 395 are deleted. Home health aides will be required to complete training program course work and pass the Department-approved competency examination no later than 120 days after the date of initial employment, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis. Successful completion of a U.S. military nurse aide training program is added as an option to establish equivalency.

The economic effect of this rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after the publication of the notice in the Illinois Register.

6) Will this rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives:

This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which interested persons may comment on this rulemaking:

Interested persons may present their comments concerning these rules by writing to Ms Gail M. DeVito, Division of Governmental Affairs, Illinois Department of Public Health, 535 West Jefferson, Fifth Floor, Springfield, Illinois 62761, (217)782-6187, within 45 days after this issue of the Illinois Register.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

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Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected:

Home Health Agencies

B) Reporting, bookkeeping or other procedures required for compliance:

None

C) Types of professional skills necessary for compliance:

None

13) This rule was not included on either of the 2 most recent regulatory agendas because:

These amendments were requested by the Home Health Advisory Committee, which met on April 12, 1995.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 245

ILLINOIS HOME HEALTH AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Definitions
245.20	Incorporated and Referenced Materials
245.25	

SUBPART B: OPERATIONAL REQUIREMENTS

Section	
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services
245.60	Annual Financial Statement
245.70	Requirements-for-State-Approved Home Health Aide Training Programs

SUBPART C: LICENSURE PROCEDURES

Section	
245.80	Licensure Required
245.90	License Application
245.100	Provisional License
245.110	Inspections and Investigations
245.120	Violations
245.130	Adverse Licensure Actions
245.140	Penalties and Fines
245.150	Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill.

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Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; amended at 19 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act - the Home Health Agency Licensing Act [210 ILCS 55].

"Administrator" - shall be any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in 77 Ill. Adm. Code 600.300 of the "Minimum Qualifications for Code Personnel Employed by Local Health Departments" (77 Ill. Adm. Code 600) as promulgated by the Department.

"Agency" - a refers--to Home Health Agency, unless otherwise designated.

Audiologist - a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

"Branch Office" - a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

"Bylaws or Equivalent" - a set of rules adopted by a home health agency for governing the agency's operation.

"Clinical Note" - a dated, written notation by a member of the health team of a contact with a patient containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction and any changes in physical or emotional condition.

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"Clinical Record" - an accurate account of services provided for each patient and maintained by the agency in accordance with accepted professional standards.

"Department" - The Department of Public Health of the State of Illinois. (Section 2.01 of the Act)

"Director" - the Director of Public Health of the State of Illinois, or his designee. (Section 2.02 of the Act)

"Discharge Summary" - the written report of services rendered, goals achieved and final disposition at the time of discharge from service.

"Geographic Service Area" - the area from which patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

"Home Health Agency" - a public agency or private organization which provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

"Home Health Aide" - a person who shall have training in these supportive services which are required to provide personal care and emotional comfort and to assist the patient toward independent living in a safe environment. Persons employed as home health aides shall be selected on the basis of such factors as emotional and mental maturity, interest and sympathy, attitude toward caring for the sick, willingness to participate in a continuous learning process, and the ability to communicate through reading, writing and carrying out instructions. On and after April 1, 1989, every agency employing home health aides shall insure through verification that all newly employed home health aides have completed a basic course of instruction. The course content shall meet guidelines established by the Department. The agency shall further insure through verification that all incumbent home health aides shall have completed the basic course or in lieu thereof, have satisfactorily demonstrated proficiency in a performance test which measures the level of competency in the assigned tasks. The performance test shall meet guidelines established by the Department. The performance test shall be administered by a registered nurse employed by the agency.

"Home Health Services" - services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

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"Licensed Practical Nurse" - a person currently licensed as a licensed practical nurse under the Illinois Nursing Act of 1987 (1987 Rev. Stat. 1989-ch-117-par-3501-et-seq.) [225 ILCS 65].

"Medical Social Worker" - a person who has a master's degree from a school of social work accredited by the Council on Social Work Education currently licensed in the State of Illinois is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] and has one year of social work experience in a health care setting.

"Occupational Therapist" - a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75] (1987 Rev. Stat. 1989-ch-117-par-3701-et-seq.) and meets one or more of the following requirements:

is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association, or

is eligible for the National Registration Examination of the American Occupational Therapy Association, or

has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such examinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapist after December 31, 1977.

"Occupational Therapy Assistant" - a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act (1987 Rev. Stat. 1989-ch-117-par-3701-et-seq.) and meets one or more of the following requirements:

meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association, or

has two years of appropriate experience as an occupational therapy assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977.

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"Part Time or Intermittent Care" - home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

"Patient" - a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health services to maintain health or prevent illness.

"Patient Care Plan" - a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or to both.

"Person" - any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

"Physical Therapist" - a person who is licensed as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90] (1987 Rev. Stat. 1989-ch-117-par-4251-et-seq.) and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration (42 CFR 484.1 through 484.40).

"Physical Therapist Assistant" - a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act (1987 Rev. Stat. 1989-ch-117-par-4251-et-seq.) and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Health Care Financing Administration (42 CFR 484.1 through 484.40).

"Physician" - Any person licensed by the Illinois Department of Professional Regulation to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60] (1987 Rev. Stat. 1989-ch-117-par-4400-i-et-seq.). For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987 (1987 Rev. Stat. 1989-ch-117-par-4400-3). Such an emergency may not extend more than six months in any case.

"Plan of Treatment" - a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient and

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members of the family.

Podiatrist - a person who is licensed to practice under the Podiatric Medical Practice Act of 1987 [225 ILCS 100].

"Professional Advisory Group" - a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines which are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the agency.

"Progress Notes" - a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

"Public---Health---Nurse"---a---registered---nurse---who---has---completed---a baccalaureate-degree-program---approved---by---the---National---League---for Nursing---for---public---health---nursing---preparation.

"Purchase of Services/Contractual" - the provision of services through a written agreement with other providers of services.

"Registered Nurse" - a person who is currently licensed as a registered nurse under the Illinois Nursing Act of 1987 [225 ILCS 65] 1111-Rev-Stat-1987-CH-1117-PAR-3561-ET-SEQ-7.

"Social Work Assistant" - a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting; or has two years of appropriate experience as a social work assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualifications as a social work assistant after December 31, 1977.

"Speech-Language Pathologist or-Audiologist" - a person who is licensed as a speech-language pathologist or-es-an-audiologist under the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] 1111-Rev-Stat-1989-CH-1117-PAR-7901-ET-SEQ-7.

"Student" - an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

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"Subdivision" - a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that which has branches is regarded as a parent agency.

"Substantial compliance" or "substantially meets" - meeting requirements except for variance from the strict and literal performance, which result in unimportant omissions or defects given the particular circumstances involved.

"Subunit" - a semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the agency is judged incapable of sharing administration, supervision and services.

"Summary Report" - a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's physician or podiatrist.

"Supervision" - authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 245.25 Incorporated and Referenced Materials

- a) The following federal regulations---standards---and---statutes are incorporated or-referenced in this Part:
- 1) Federal-Government-Regulations: Department of Health and Human Services, Health Care Financing Administration, Medicare Program Conditions of Participation for Home Health Agencies (42 CFR 484.1 through 484.40), January 1, 1991.
- b) All incorporations by reference of federal regulations and the regulations or standards on the date specified in this Part refer to any additions or deletions subsequent to the date specified.
- c) The following State statutes are referenced in this Part:

- 2) State-of-Illinois-Statutes:
- 1) Administrative Review Law [735 ILCS 5/Art. III] 1111-Rev-Stat-1989-CH-1107-PAR-9-101-ET-SEQ-7
- 2) Business Corporation Act of 1938 [805 ILCS 5] 1111-Rev-Stat-1989-CH-327-PAR-1-101-ET-SEQ-7
- 3) Illinois Administrative Procedure Act [5 ILCS 100] 1111-Rev-Stat-1991-CH-1177-PAR-1001-1-ET-SEQ-7
- 4) Illinois Nursing Act of 1987 [225 ILCS 65] 1111-Rev-Stat-1989-CH-1117-PAR-3561-ET-SEQ-7

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- 5)B) Illinois Occupational Therapy Practice Act [225 ILCS 75] ~~§§§§~~
Rev--Stat--1989--ch--117--par--3901-et-seq--7
- 6)F) Illinois Physical Therapy Act [225 ILCS 90] ~~§§§§~~ Rev--Stat--
1989--ch--117--par--4251-et-seq--7
- 7)G) Illinois Speech-Language Pathology and Audiology Practice Act
[225 ILCS 110] ~~§§§§~~ Rev--Stat--1989--ch--117--par--7901-et
seq--7
- 8)H) Local Records Act [50 ILCS 205] ~~§§§§~~ Rev--Stat--1989--ch--117
par--43101-et-seq--7
- 9)I) Medical Practice Act of 1987 [225 ILCS 60] ~~§§§§~~ Rev--Stat--
1989--ch--117--par--4401-et-seq--7
- 3) State-of-Illinois-Rules:
- d) The following State rules are referenced in this Part:
- 1)A) Department of Public Health, Minimum Qualifications for
Personnel Employed by Local Health Departments (77 Ill. Adm. Code
600);
- 2)B) Department of Public Health, Rules of Practice and Procedure in
Administrative Hearings (77 Ill. Adm. Code 100);
- d) All--incorporations--by--reference--of--federal--regulations--and--the
standards-of-nationally-recognized-organizations-in-this-Part--refer--to
the-regulations-or-standards-on-the-date-specified-and-do-not--include
any-additions-or-deletions-subsequent-to-the-date-specified:

(Source: Amended at 19 Ill. Reg. _____, effective
_____)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

- a) Governing Body. The home health agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the home health agency. Where the governing body of a large organization is functionally remote from the operation of the home health agency, the Department may approve the designation of an intermediate level "governing body". For the purposes of this Section the governing body shall:
- 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and of the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency.
 - 2) Appoint members of the professional advisory group.
 - 3) Employ a qualified administrator.
 - 4) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency.
 - 5) Meet to review the operation of the agency.
 - 6) Keep minutes of all meetings.

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- 7) Provide and maintain an office facility adequately equipped for efficient work and that which provides a safe working environment in compliance with local ordinances and fire regulations.
- b) Professional Advisory Group
- 1) The professional advisory group shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the Governing Body. These policies and procedures shall include but not be limited to:
 - A) Administration and supervision of the agency and the home health services it provides.
 - B) Criteria for the acceptance, non-acceptance and discharge of patients.
 - C) Home health services. Home-Health-Services-
 - D) Medical supervision and plans of treatment.
 - E) Patient care plans.
 - F) Clinical records.
 - G) Personnel data.
 - H) Evaluation.
 - I) Coordination of services.
 - 2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.
- c) Administration
- 1) The home health agency shall have written administrative policies and procedures to insure the provision of safe and adequate care of the patient.
 - 2) The home health agency shall show evidence of liability insurance.
- d) Agency Supervision
- 1) The home health agency shall designate a person with one of the following sets of qualifications to supervise the provision of home health services:
 - A) a physician;
 - B) a registered nurse who: ~~is-a-sublic--health--nurse--with--at-least-one-year-of-nursing-experience--or~~
i) has completed a baccalaureate degree program approved by the National League for Nursing; and
ii) has at least one year of nursing experience.
 - C) a registered nurse who does not have a baccalaureate degree, ~~is-not-a-public-health-nurse~~ but who has at least three years of nursing experience, which meets the following requirements:
 - i) At least two year of such nursing experience must have

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been in either: a home health agency; a community health program that included care of the sick; or a generalized family centered nursing program in a community health agency.

- ii) At least two years of the three years nursing experience must have been obtained within five years prior to current employment with the home health agency.

2) The agency supervisor shall be available at all times during operating hours of the agency and participate in all activities relevant to the provision of home health services.

3) Any person employed as an Agency Supervisor prior to July 1, 1983, may continue to serve in that capacity at that agency only without meeting the qualifications for Agency Supervisor that which were in effect prior to October 1, 1983.

4) One person may hold the positions of both administrator and agency supervisor, if that person meets the requirements of both positions.

e) Supervising Nurse

1) The skilled nursing service of a home health agency shall be under the supervision of a full-time registered nurse.

2) The supervising nurse shall be responsible for:

A) The overall supervision of all registered nurses, licensed practical nurses and home health aides.

B) The assurance that the professional standards of community nursing practice are maintained by all nurses providing care.

C) Maintaining and adhering to agency procedure and patient care policy manuals.

D) Participation in the establishment of service policies and procedures.

E) Participation in the selection of nursing personnel and the evaluation of nursing personnel.

F) Coordination of patient care services.

G) Keeping and maintaining records of case assignments and case management.

H) Preparation and maintenance of scheduling of cases to be brought to the clinical record review committee.

I) The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.

f) Personnel Policies

1) Personnel policies applicable and available to all full- and part-time employees shall include but not be limited to the following:

A) Wage scales, fringe benefits, hours of work and leave time.

B) Requirements for an initial health evaluation of each new employee who has contact with patients, including a physical

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examination and any other components as specified by the governing body.

C) Orientation to the home health agency and appropriate continuing education.

D) Job descriptions for all positions utilized by the agency.

E) Annual performance evaluation for all employees.

F) Compliance with all applicable requirements of the Civil Rights Act of 1964.

G) Provision for confidentiality of personnel records.

H) Employee health policies that which require employees to report health symptoms and exposure to any communicable or infectious disease and that which specify conditions under which employees are to be removed from patient contact and conditions under which employees may resume patient contact.

2) Personnel records for all employees shall include the name and address of the employee, social security number, date of birth, name and address of next of kin, evidence of qualifications (including any, current licensure, registration, or certification which is required by state or federal law for the functions performed), dates of employment and separation from the agency and the reason for separation.

3) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that which is required by state or federal law for the functions performed, under the supervision of the agency.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 245.40 Staffing and Staff Responsibilities

a) Administrator. The administrator shall have the following responsibilities:

1) Ensure that the agency is in compliance with all applicable federal, State and local laws.

2) Be familiar with the rules of the Department and maintain them within the agency.

3) Familiarize all employees as well as providers through contractual purchase of services with the law and the rules of the Department and make copies available for their use.

4) Ensure the completion, maintenance and submission of such reports and records as required by the Department.

5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community.

6) Maintain a current organizational chart to show lines of authority down to the patient level.

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- 7) Have the authority for the management of the business affairs and the overall operation of the agency.
- 8) Maintain appropriate personnel records, administrative records and all policies and procedures of the agency.
- 9) Employ qualified personnel in accordance with job descriptions.
- 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff.
- 11) Designate in writing the qualified staff member to act in the absence of the administrator.

b) Home Health Aide

- 1) When home health aide services are offered, the services shall be under the supervision of a registered nurse in accordance with the plan of treatment. The home health aide is assigned to a particular patient by a registered nurse. Written instructions for patient care are prepared by a registered nurse or the appropriate therapist.

- 2) Duties of the home health aide may include:

- A) The performance of simple procedures as an extension of therapeutic services.
- B) Personal care.
- C) Ambulation and exercise of the patient.
- D) Household services essential to health care at home.
- E) Assistance with medications that are ordinarily self-administered.
- F) Reporting changes in the patient's condition and needs to the registered nurse or the appropriate therapist.
- G) Completion of appropriate records.

- 3) The registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent to assess relationships and determine whether goals are being met.

c) Licensed Practical Nurse

- 1) The licensed practical nurse may perform selected acts in accordance with the Illinois Nursing Act of 1987 (~~411-Rev-Stat-1997-chr-1117-par-3501-et-seq-7~~ [225 ILCS 65], including the administration of treatments and medications in the care of the ill, injured, or infirm, the maintenance of health and prevention of illness, under the direction of a registered nurse.

- 2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse and these reports shall be documented in the clinical notes.

- 3) The licensed practical nurse shall prepare clinical notes for the clinical record.

- d) Medical Social Worker. When provided, medical social services shall be given by a qualified social worker or by a qualified social work assistant under the supervision of a qualified social worker in

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accordance with the plan of treatment. These services shall include the following:

- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
- 2) Assess the social and emotional factors in order to estimate the patient's capacity and potential to cope with the problems of daily living.

- 3) Help the patient and family to understand, accept and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.

- 4) Assist patient and family with personal and environmental difficulties which predispose toward illness or interfere with obtaining maximum benefits from medical care.

- 5) Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.

- 6) Observe, record and report social and emotional changes.

- 7) Prepare clinical and progress notes for the clinical record.

- e) Occupational Therapist and Occupational Therapy Assistant. When provided, occupational therapy services shall be given by an qualified occupational therapist or by an a-qualified occupational therapy assistant under the supervision of an a-qualified occupational therapist in accordance with the plan of treatment. These services shall include the following:

- 1) Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.

- 2) Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.

- 3) Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.

- 4) Instruct other health team personnel including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.

- 5) Prepare clinical and progress notes for the clinical record.

- f) Physical Therapist and Physical Therapist Assistant
- 1) When provided, physical therapy services shall be given by a qualified physical therapist or by a qualified physical therapist assistant under the supervision of a qualified physical therapist in accordance with the plan of treatment. These services shall include the following:

- A) Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.

- B) Plan and prepare a written treatment program based on the

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- evaluation of available patient data.
- C) Perform patient tests, measurements, and evaluations, such as range-of-motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.
 - D) Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.
 - E) Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non-manual exercises, such as active regimens, isometric and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving application of physical agents, such as heat, light, cold, water and electricity. Administer traction and massage. Evaluate, fit and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.
 - F) Observe, record and report to the physician or podiatrist the patient's treatment, response and progress.
 - G) Instruct other health team personnel including, when appropriate, home health aides and family members in certain phases of physical therapy with which they may work with the patient.
 - H) Instruct patient and family in total physical therapy program.
 - I) Prepare clinical and progress notes for the clinical record.
- 2) Supervision of the physical therapist assistant shall include the following:
- A) A registered physical therapist must be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.
 - B) On-site supervision should take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit should include a complete on-site functional assessment, an on-site review of activities with

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- appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- 3) The physical therapist assistant shall:
 - A) Be directed by and under the supervision of a licensed registered physical therapist.
 - B) Administer the physical therapy program as established by the physical therapist.
 - C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water and electrical modalities to patients with relatively stable conditions.
 - D) Instruct, motivate and assist patients in learning and improving functional activities such as perambulation, transfers, ambulation and activities of daily living.
 - E) Observe patient's progress and response to treatment and report to the physical therapist.
 - F) Confer with members of the health care team for planning, modifying, and coordinating treatment programs.
 - g) Registered Nurse. Skilled nursing services shall be given by a registered nurse in accordance with the plan of treatment. These services shall include the following:
 - 1) Have the responsibility for the observation, assessment, nursing diagnosis, counsel, care and health teaching of the ill, injured or infirm, and the maintenance of health and prevention of illness of others.
 - 2) Maintain a clinical record for each patient receiving care.
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care or at least every sixty days.
 - 4) Make home health aide assignments, prepare written instructions for the aide and supervise the aide in the home.
 - 5) Direct the activities of the licensed practical nurse.
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist.
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
 - h) Speech-Language Pathologist. When provided, speech therapy services shall be given by a ~~qualified~~ speech-language pathologist in accordance with the plan of treatment. These services shall include the following:
 - 1) Assist the physician in determining and recommending appropriate speech and hearing services.
 - 2) Evaluate the patient's speech and language abilities and establish a plan of treatment.
 - 3) Provide rehabilitation services for speech and language disorders.
 - 4) Record and report to the patient's physician the patient's

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progress in treatment and any changes in the patient's condition and plan of care.

- 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
- 6) Prepare clinical and progress notes for the clinical record.
- i) Audiologist. When provided, audiology services shall be given by an audiologist in accordance with the plan of treatment. These services shall include the following:
 - 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities.
 - 2) Assess the patient's need for amplification.
 - 3) Provide rehabilitative services for hearing disorders.
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- j) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, there shall be a written agreement between the agency and each educational institution. The agreement must specify the responsibilities of the agency and the educational institution. The agreement shall include at a minimum the following provisions:
 - 1) The agency retains the responsibility for client care.
 - 2) The educational institution retains the responsibility for student education.
 - 3) The student and faculty performance expectations.
 - 4) Faculty supervision of undergraduate students in the clinic and the field.
 - 5) Ratio of faculty to students.
 - 6) Confidentiality regarding patient information.
 - 7) Required insurance coverage.
 - 8) Provisions for joint evaluation by the agency and faculty of the students' performance and of the training program.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 245.50 Services

a) Services Provided

- 1) Each agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or provided under arrangement

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through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.

- 2) The agency shall state in writing what services will be provided directly and what services will be provided under arrangements.
- 3) Services provided under arrangements shall be through a written agreement that which includes but is not limited to the following:
 - A) Services to be provided.
 - B) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.
 - C) Designation of full responsibility for agency control over contracted services.
 - D) Procedures for submitting clinical and progress notes.
 - E) Charges for contracted services.
 - F) Statement of responsibility of liability and insurance coverage.
 - G) Period of time in effect.
 - H) Date and signatures of appropriate authorities.
 - I) Provision for termination.
- b) Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:
 - 1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be reduced to writing within 14 days.
 - 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
 - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.
 - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.
 - 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
 - 6) Services shall not be terminated until such time as the

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registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.

c) Plan of Treatment

- 1) Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:

- A) Diagnoses.
- B) Functional limitations and rehabilitation potential.
- C) Expected outcomes for the patient.
- D) The patient's physician or podiatrist regimen of:
 - i) Medications.
 - ii) Treatments.
 - iii) Activity.
 - iv) Diet.
 - v) Specific procedures deemed essential for the health and safety of the patient.
 - vi) Mental status.
 - vii) Frequency of visits.
 - viii) Equipment required.
 - ix) Instructions for timely discharge or referral.
- E) The patient's physician's or podiatrist's signature and date.

- 2) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 14 days after of any modification of the medical plan of treatment.

- 3) The plan shall be reviewed by the home health services team every 62 60 days or more often should the patient's condition warrant.
- 4) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 60 days or more often as indicated.

d) Patient Care Plan

- 1) Home health services from members of the agency staff as well as those under arrangements shall be given in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by

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request of a registered nurse.

- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:

- A) Patient problems.
- B) Patient's goals, family's goals, service goals.
- C) Service approaches to modify or eliminate problems.
- D) The staff responsible for a given element of service.
- E) Anticipated outcome of service approach with an estimated time frame for completion.
- F) Potential for discharge from service.

- e) Clinical Records. Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:

- 1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.
- 2) A plan of treatment signed by the patient's physician or podiatrist.
- 3) A patient care plan for the patient developed by the home health services team which is in accord with the patient's physician's or podiatrist's plan of treatment.
- 4) A noted medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.
- 5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.
- 6) Assessments made by other members of the home health services team.
- 7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.
- 8) Reports on all patient home health care conferences.
- 9) Reports of contacts with the patient's physician or podiatrist by patient and staff.
- 10) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.
- 11) Written summary reports sent to the patient's physician or podiatrist every 60 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.
- 12) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- 13) A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post

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- discharge needs of the patient.
- 14) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
- 15) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.
- 16) Those agencies which are subject to the Local Records Act ~~43-1167-1989, ch. 1167-par. 43-101-et-seq.~~ should note that "except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained."
- 17) ~~16~~ Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.
- f) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 3) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and promptly report any problem to the patient's physician or podiatrist.
 - 4) All verbal orders for medication or change in medication orders shall be taken by the registered nurse and reduced to writing and signed by the patient's physician or podiatrist within seven days.
 - 5) When any experimental drug, sera, allergenic desensitizing agent, penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that which may

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- be necessary in the event of a drug reaction.
- g) Evaluation. The home health agency shall have written policies and is required to make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that which are participating in the provision of home health services. The evaluation consists of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
- h) Policy and Administrative Review. As a part of the evaluation process the policies and administrative practices of the agency are reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms are established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons and total staff days for each service offered.
- i) Clinical Record Review
- 1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs, shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct as well as those under arrangement). This review will include, but not be limited to, the following:
 - A) Whether ~~if~~ the patient care plan was directly related to the stated diagnosis and plan of treatment;
 - B) Whether ~~if~~ the frequency of visits was consistent with the plan of treatment;
 - C) Whether ~~if~~ the services could have been provided in a shorter span of time.
 - 2) There is a continuing review of clinical records for each ~~60~~ day period that a patient received home health services to determine adequacy of the plan of treatment and appropriateness of continuation of care.
- (Source: Amended at 19 Ill. Reg. _____, effective _____)

Section 245.70 Requirements--for--State--Approved Home Health Aide Training Programs

- a) Home-Health-Aide-Training--Program---Each Home Health agency shall

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ensure that all persons employed as home health aides or under any other title, whose duties are to assist with the personal, nursing or medical care of the patients, and who are not otherwise licensed, certified or registered in accordance with Illinois law by the Illinois Department of Registration and Education to render such care, comply with one of the following conditions within 45 days of initial employment:

- 1) Provide documentation of registration on the Department's Nurse Aide Registry; or
 - 2) Enroll in a training program that has been approved by the Department under its rules governing training programs for nursing assistants and aides (77 Ill. Adm. Code 395) and pass the Department approved nursing assistant competency examination. The program course work shall be successfully completed and the competency examination passed by the nursing assistant no later than 120 days after the date of initial employment, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis; or
 - 3) Attend a recognized Home Health Aide Training Program registered with the Department of Public Health and successfully complete the Department's proficiency examination; or
 - 4) Prove exemption from training by prior work experience as outlined in Section 245.70(b), continuously employed at the same agency for one (1) year or employed at more than one (1) facility for two (2) years as a home health aide prior to March 17, 1980; or
 - 5) Meet equivalencies established in subsection (b) of this Section.
- b) Equivalency may be established by any one of the following:
- 1) Documentation of successful completion of a training course approved by another state as evidenced by a diploma or certificate.
 - 2) Documentation of at least one year of continuous employment as a nursing assistant in one licensed Hospital, Long Term Care Facility, Home Health Agency, between March 17, 1975 and March 17, 1980, as evidenced by personnel records.
 - 3) Documentation of employment as a nursing assistant for two or more years in more than one licensed Hospital, Long Term Care Facility, Home Health Agency, between March 17, 1975 and March 17, 1980, as evidenced by personnel records.
 - 2) Documentation of successful completion of a nursing arts course which included at least 40 hours of clinical experience in an accredited nurse training program as evidenced by diploma, certificate or other written verification from the school.

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- 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program, as evidenced by a diploma, certification, or other written verification, and the written portion of the Department approved nursing assistant competency evaluation.
- 5) Documentation of successful completion of a nurse aide training course approved by the Illinois Board of Education between March 17, 1979 and March 17, 1980, as evidenced by a diploma or certificate.
- 6) Documentation of one year of employment as a nurse aide in one facility with an interruption due to sick leave or education leave not exceeding six (6) weeks during the year ending March 17, 1980.
- c) Requests to establish equivalency shall be submitted to the Department Office of Health Regulation with accompanying documentation.
- e) Application Procedures
 - 1) The following information must be furnished to the Department at least sixty (60) days in advance of the training program. Retroactive approval will not be granted.
 - 1) Program rationale, i.e., philosophy, purpose and brief summary that identifies sponsoring agency, program coordinator, and faculty qualifications. The instructor shall be a registered nurse with training expertise. Instructors vitae must be submitted.
 - 2) Complete outline including program title, objectives, content and methodology delineated by hour. The instructor has flexibility of teaching content in desired outline.
 - 3) Location and dates of program.
 - 4) A copy of the evaluation tool must be included. The evaluation tool must evaluate the objectives, content and instructors.
 - 5) Submitted materials will be reviewed by the Department and the program sponsor will be notified of the Department's action. If the program is not approved, the reason for this decision will be given to the program sponsor.
 - 6) If a program is deferred or not approved, the program sponsor may, after making the appropriate modifications, reapply for approval.
 - 7) The basic course must be presented in a minimum time frame of three (3) weeks, but not to exceed a maximum of one hundred twenty (120) days, unless the training is being done by an educational institution recognized by the Illinois State Board of Education on a term, semester or trimester basis. A total of three (3) hours of clinical to one (1) hour of theory instruction should be reflected in the one hundred twenty (120) hours minimum of training of which twelve (12) hours shall be in area of training exclusively for Home Health care. Term, semester and

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semester-courses may be submitted by an educational institution. The program must include designated hours for clinical institution affiliation.

8) Orientation to the specific policies of the employing agency shall be in addition to the one hundred twenty (120) hours of instruction.

9) Any change in content or instructional staff must be submitted for review.

10) All courses must be submitted on an annual basis for continued approval.

d) Course Requirements

The Basic Home Health Aide Training Program must include at a minimum:

1) Orientation

A) Functions of health care facilities

B) Home Health Agencies and the health care professions

C) Philosophy of patient care

D) The role of the multidisciplinary health care team

E) Personal qualities of the home health aide

F) Duties of the home health aide

G) Medical terminology

H) Recording

2) Introduction to the patient

A) Communication and interpersonal relationships with patient, families and others

B) Psychological needs of patient and family

C) Normal growth and development

D) Your working environment

E) Cleanliness in the health care setting and patient homes

F) Principles of disinfection

G) Principles of sterilization

H) Techniques of disinfection

I) Maintaining equipment and supplies

4) Safety

A) Body mechanics

B) Fire safety

C) Disaster

5) The patient's unit

Bedmaking procedure - unoccupied and occupied

6) Lifting - moving and transporting patients

A) In bed

B) Ambulatory

C) Wheelchair

D) Stretcher

7) Basic Anatomy

A) Anatomy of the Skeletal System

B) Anatomy of the Circulatory System

C) Anatomy of the Digestive System

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B) Anatomy of the Respiratory System
B) Anatomy of the Urinary System
F) Functioning of the human body as related to the disease process

8) Personal care of the patient

A) Oral hygiene

B) Bathing procedures

C) Care of the back, feet and skin

D) Observing and reporting

9) Nutrition

A) Diets - therapeutic diets

B) Feeding techniques

C) Nourishments

D) Fluid intake

10) Fluid balance

A) Measuring fluid intake and output

B) Potting and restricting fluids

C) Specimen collection

11) Observing and recording vital signs

A) Taking the temperature

B) Taking pulse

C) Taking respirations

D) Taking blood pressure

E) Recording vital signs

12) Supportive care

A) Heat applications

B) Cold applications

C) Enemas

D) The vaginal douche - external and internal

E) Preparing the patient for surgery - physiologically

F) Preparing the patient for surgery - psychologically

G) Care for the post-operative patient's physiological needs

H) Care for the post-operative patient's psychological needs

I) Care for the psychological needs of home-bound patients

13) Fundamentals of Rehabilitation Nursing

A) Philosophy of rehabilitation nursing

B) Principles of rehabilitation nursing

C) Concepts of activities of daily living

14) Patient care planning

A) Patient admission

B) Patient transfer

C) Patient discharge

D) Plan of care for the patient in the home

E) The patient in isolation

F) Isolation techniques

G) Psychological aspects of isolation

H) Psychological aspects of isolation

I) Isolation in the home

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- 16) Care-of-the-terminally-ill-patient:-
 A) Psychological-needs-of-the-patient;
 B) Psychological-needs-of-the-family;
 17) Care-of-the-body:-
 Postmortem-care;
 e) Evaluation
 Upon-successful-completion-of-the-basic-home-health-aide-training program-the-student-must-show-competency-of-nursing-skills-by demonstrating-those-skills-as-well-as-by-passing-a-written-examination encompassing-theory-and-skills-taught;
 f) Monitoring-of-Approved-Programs
 The-Department-shall-monitor-each-training-program--if-a-monitor finds-the-training-to-be-inadequate-relative-to-the-materials submitted-to-the-Department's-Review-Committee-the-training-provider will-modify-the-training-to-comply-with-the-plan-as-previously approved--Failure-by-the-training-provider-to-do-so-prior-to-the-end of-the-training-shall-result-in-approval-being-rescinded-by-the Department;
 g) Certificates
 1) Sponsoring-organizations-must-award-certificates-of-successful completion-of-the-approved-program-to-the-trainees--Certificates must-be-sent-to-the-Department-where-they-will-be-validated--A list-of-names-with-social-security-numbers--course-completion date--and--program-approval-number-must-accompany-submitted certificates--the-Department-will-return-the-certificates-to-the sponsor-for-distribution;
 2) The-following-minimum-information-must-be-typed-on-the certificates-before-they-are-sent-to-the-Department-for validation:
 A) Name-of-the-trainee-and-Social-Security-number;
 B) Title--Basic-Home-Health-Aide-Training-Program;
 C) Identification-number-of-the-program-assigned-by-the Department;
 3) Successful-completion-of-the-course-does-not-imply certification-of-the-home-health-aide-by-the-State--it-only indicates-that-the-person-has-successfully-completed-the-Basic Home-Health-Aide-training-program-and-can-be-employed-by-licensed home-health-agencies-as-a-home-health-aide;
 h) Application-for-approval-of-programs
 1) Requests-for-approval-of-programs--and-other-related correspondence-are-to-be-submitted-to:
 Illinois-Department-of-Public-Health
 Office-of-Health-Regulation
 525-West-Deterson-Street
 Springfield-Illinois-62761
 2) It-will-not-be-necessary-for-any-course-currently-approved-under criteria-in-effect-at-the-time-these-revised-criteria-for-Basic Home-Health-Aide-Training-Programs-become-effective-to-make-any

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- changes-in-program-content-until-such-time-as-monitoring-by-the Department-indicates-the-revisions-to-the-program-content-are needed-to-keep-the-program-in-compliance-with-Section-245-70(d)-7. Any-program-determined-to-need-changes-will-be-so-notified-in writing-by-the-Department--Unless-and-until-such-written notification-is-received-there-is-no-need-to-contact-the Department-concerning-approval-of-a-program;
 i) Recognized-training-program
 1) Any-licensed-Home-Health-Agency-may-teach-a-recognized-training program-for-home-health-aides-which-can-be-individualized-for each-employee-and-can-be-taught-by-any-person-or-persons-in-the facility;
 2) Any-home-health-aide-who-attends-a-recognized-training-program must-successfully-pass-the-Department's-proficiency-examination before-being-permitted-to-function-as-a-certified-home-health aide;
 3) Recognized-training-programs-shall-be-registered-with-the Department-by-letter-and-must-state-that-as-a-minimum-the course-content-in-Section-245-70(d)-7-will-be-taught-wholly-or-in part--give-the-name-of-the-instructor-and-give-notice-that-the program-is-operational;
 4) Recognized-training-programs-must-as-a-minimum-provide-all-or part-of-the-course-content-of-an-approved-Department-training program-such-as-in-Section-245-70(d)-7;
 j) Proficiency-examination-for-Home-Health-Aide
 1) Any-person-employed-as-a-home-health-aide-may-elect-and-request to-take-a-proficiency-examination-in-lieu-of-a-course-of training;
 2) The-person-must-be-or-will-be-employed-as-a-home-health-aide;
 3) A-completed-application-must-be-presented-at-the-time-of-the examination-on-forms-provided-by-the-Department--the-proficiency-examination-will-be-offered-monthly-in-each-of the-Department's-Regions--A-list-of-test-sites-dates-and-times can-be-obtained-by-calling-the-Department-at-217-705-4133;
 5) The-examination-will-consist-of-four-sections-of-written questions-from-the-approved-curriculum-as-shown-in-Section 245-70(d)-7--An-examinee-must-score-70% or more-on-each-section in order-to-successfully-pass-the-section--Notice-of-Pass-or-Fail will-be-sent-to-the-examinee-and-the-employer--Only-those sections-previously-failed-must-be-retaken-during-subsequent attempts-to-pass-the-entire-proficiency-examination;
 6) An-examinee-who-fails-the-proficiency-examination-three(3)-times within-the-first-one-hundred-twenty(120)-days-of-employment-must enroll-in-and-complete-an-approved-course-of-instruction-in-order to-become-a-qualified-home-health-aide;
 d) The Home Health Agency is responsible for assuring that the individuals who furnish home health aide services on its behalf are competent to carry out assigned tasks in the patient's place of

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residence.

- e) A Home Health Agency shall not employ an individual as a home health aide unless the Agency has inquired of the Department as to information in the Nurse Aide Registry concerning findings of abuse, neglect, or misappropriation of property.

(Source: Amended at 19 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Cost of Service

- 2) Code Citation: 83 Ill. Adm. Code 791

- 3) Section Numbers: Adopted Action:

791.10	New Section
791.20	New Section
791.30	New Section
791.40	New Section
791.50	New Section
791.60	New Section
791.70	New Section
791.80	New Section
791.90	New Section
791.100	New Section
791.200	New Section

- 4) Statutory Authority: Implementing Section 13-507 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-507 and 10-101].

- 5) Effective Date of Rules: August 1, 1995

- 6) Does this rulemaking contain an automatic repeal date? No.

- 7) Do these rules contain incorporations by reference? No.

- 8) Date Filed in Agency's Principal Office: July 19, 1995

- 9) Notice of Proposal Published in Illinois Register:

September 9, 1994, at 18 Ill. Reg. 13551.

- 10) Has JCAR issued a Statement of Objections to these rules? No.

- 11) Difference(s) between proposal and final version:

References to "Ill. Rev. Stat." deleted.

Section 791.70(d): Citation to Section 791.20 corrected.

Section 791.100: Internal subsection designations corrected.

Section 791.200(e): "Section 791.200(a)(3), (4) and (5)" replaced by "subsections (b)(3), (4) and (5)".

Section 791.200(e): "18 months from the effective date of this Part" replaced by "until February 1, 1997".

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will these rules replace emergency rules currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Rules: The rules will establish the principle of cost causation and delineate the requirements of the studies mandated by Section 13-507 of the Public Utilities Act.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Conrad Rubinkowski
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280
(217)785-8439

The full text of the Adopted Rules begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 791
COST OF SERVICE

Section	
791.10	Carriers Subject to Cost Rules
791.20	Terminology
791.30	Cost Causation Principle
791.40	Methods and Assumptions
791.50	Cost Study Component Presentation
791.60	General Cost Study Components
791.70	Investment-related Cost Study Components
791.80	Annual Cost Study Components
791.90	Subsidy Tests
791.100	Required LRSIC Filings
791.200	Aggregate Revenue Test for Competitive Services

AUTHORITY: Implementing Section 13-507 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-507 and 10-101].

SOURCE: Adopted at 19 Ill. Reg. 11357, effective AUG 01 1995.

Section 791.10 Carriers Subject to Cost Rules

This Part applies to telecommunications carriers providing both competitive and noncompetitive services, except those carriers that are specifically exempted in Section 13-504(b) of the Act. See Sections 13-202, 13-209, and 13-210 of the Public Utilities Act ("Act") [220 ILCS 5/13-202, 13-209, and 13-210].

Section 791.20 Terminology

- a) The long-run service incremental cost of a service ("LRSIC") is the forward-looking additional cost(s) incurred by the telecommunications carrier ("carrier") to provide the entire output of a service, including additional resources such as labor, plant, and equipment. Long-run service incremental cost excludes any costs, including common costs, that would be incurred if the service is not produced.
- b) Long-run costs are the economic costs over a planning horizon long enough so that there are no sunk inputs or costs.
- c) Forward-looking costs are the costs to be incurred by a carrier in the provision of a service. These costs shall be calculated as if the service were being provided for the first time and shall reflect planned adjustments in the firm's plant and equipment.

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Forward-looking costs ignore embedded or historical costs; rather, they are based on the least cost technology currently available whose cost can be reasonably estimated based on available data.

d) Volume-insensitive costs are costs that do not vary with changes in output.

e) Volume-sensitive costs are costs that vary with changes in output of a particular service.

f) A group of services that is referenced in this Part consists of those services that share a common network technology, element, or business function that is necessary and unique to the provision of all services in the group, and where that common network technology, element, or business function cannot be attributed to any one service or subgroup of services in the group.

g) LRSIC of a group of services: Where additional resources are used in common and are necessary to provide a group of services, the long-run service incremental cost of that group of services includes the cost caused by the portion of such additional resources used solely by that group of services, including the LRSIC's of the individual services. Resources include labor, plant, and equipment.

h) Common costs are those costs that a carrier must incur in order to operate that are not directly attributable to any particular service or to any group of services smaller than the group of services consisting of all the services of the carrier.

i) Ad valorem taxes are those which are levied on the value of plant as determined by a governmental taxing authority (e.g., local property taxes levied against telephone plant).

j) Capital costs are the recurring costs that result from expenditures for plant facilities which are capitalized. These annual capital costs include depreciation, cost of capital (return), and income taxes.

k) Expenses are the cost or resources consumed in the production of revenue that are expensed rather than capitalized in accordance with the Uniform System of Accounts applicable to the carrier (83 Ill. Adm. Code 710).

l) Investment is a long-term capital asset (normally with a life exceeding one year) which is depreciated rather than expensed in accordance with the Uniform System of Accounts applicable to the carrier (83 Ill. Adm. Code 710).

m) Recurring costs are costs which will continue throughout the revenue producing life of the service. They include capital costs and expenses.

n) Usable capacity is the maximum physical capacity of the equipment or resource less any capacity required for maintenance, testing or administrative purposes.

Section 791.30 Cost Causation Principle

Costs shall be attributed to individual services or groups of services based on the following cost causation principle. Costs are recognized as being caused

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by a service or group of services if:

a) The costs are brought into existence as a direct result of providing the service or group of services; or

b) The costs are avoided if the service or group of services is not provided.

Section 791.40 Methods and Assumptions

a) The methodology and assumptions in this Part apply to cost studies required by this Part and the Act.

b) Nothing in this Part shall require a carrier in any LRSIC study to account for, allocate, apportion, assign or reflect costs in any manner inconsistent with the Uniform System of Accounts (83 Ill. Adm. Code 710) or the Federal Communications Commission's Uniform System of Accounts (47 CFR 32).

c) Since LRSIC represents a measurement of the costs to a carrier of providing a service or group of services on a prospective basis over a planning horizon long enough to have no sunk inputs or costs, when determining the LRSIC of a service or a group of services, use of the following assumptions and methods shall be presumed reasonable:

1) The LRSIC study shall be based upon the locations of, and planned locational changes to, the existing network configuration;

2) To the fullest extent possible, volume-insensitive costs shall be directly attributed to particular services or, where shared by a group of services, to that group of services, consistent with the cost causation principle;

3) Volume-sensitive costs shall be directly attributed to the service that causes the costs, consistent with the cost causation principle;

4) The LRSIC study shall reflect the demand for the entire service that is affected by the business or regulatory decision at hand. If the LRSIC study is for a new service, the study shall include all demand forecasts used in the computations.

Section 791.50 Cost Study Component Presentation

All cost studies provided by a carrier shall specifically identify the components outlined in Section 791.60 when such components are incurred and directly attributable to the service being studied. Further detail on each component shall be provided where identified.

Section 791.60 General Cost Study Components

a) Service description. Each cost study shall include a definition of the service being studied. This definition shall be in terms of technical characteristics, functionality, application, targeted market, and availability. The elements of the service shall also be defined.

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- b) Demand Information. The carrier shall provide the demand figures and/or forecast(s) used in the LRSIC computations and an explanation detailing the explicit and implicit assumptions and methods used to derive the figures and/or forecast(s). Demand forecasts for new services shall reflect total demand for the service, averaged over the projected revenue producing life of the service.
- c) Revenue life. Each cost study shall identify and provide a basis for the projected revenue producing life of the service or group of services.
- d) Economic life. Each cost study shall identify and provide a basis for the projected economic life of the equipment involved in providing the service or group of services.
- e) Input prices. Each cost study shall reflect input prices (e.g., the prices for materials, labor, and capital) that the carrier is actually expected to face. The carrier shall provide the underlying bases for projected changes in input price levels, using, wherever possible, projections based on market expectations and rates set in labor contracts. Where appropriate, costs shall be based on prevailing vendor prices or vendor prices under consideration that reflect volume discounts or term discounts off listed input prices. These discounts shall be reflected in the cost study.
- f) Factors. Whenever any factors are used to estimate costs, such as maintenance or labor costs, the basis for those factors shall be described in an annual filing with the Director of the Telecommunications Section in the Public Utilities Division of the Illinois Commerce Commission. Factors shall be based upon historical costs only to the extent that it can be demonstrated that those historical costs are relevant to the study of forward-looking costs. Any deviations in individual cost studies from factors filed on an annual basis shall be identified and explained in each cost study.
- g) Volume-insensitive costs. To the fullest extent possible, volume-insensitive costs shall be directly attributed to particular services or, where shared by a group of services, to that group of services.
- h) Volume-sensitive costs. Volume-sensitive costs shall be directly attributed to the service that causes the costs.
- i) The cost study shall include all relevant service-specific start-up costs, including installation costs.

Section 791.70 Investment-related Cost Study Components

- a) Material. The material component of investment shall be based on the most recent vendor prices, reflecting applicable discounts and all applicable taxes, for the hardware and software resources required to provide the service. The carrier shall provide a breakdown of the material involved in providing the service.
- b) Inventory and supply. The inventory and supply components shall reflect the costs to the company of inventory, administration, storage

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- c) Labor investment. The labor investment component shall consist of the labor required to install and put into service capital assets. The labor investment component shall be divided into two components, vendor-related and carrier-related labor investment. Vendor-related labor investment shall include billed installation and engineering. Carrier-related investment may be calculated based on either account averages or product specific plant engineering and installation hours. Total labor costs shall be computed by multiplying the account average or product specific work time by the appropriate labor hours. Hourly labor rates shall include the operational wages, benefits, paid absence, tools, and miscellaneous expenses.
 - d) Utilization factors. The utilization factor measures the usable capacity of a capital resource pursuant to the definition of usable capacity in Section 791.20(n). Investment shall be adjusted to reflect the usable capacity by dividing the dollar amount of investment by the utilization factor estimated pursuant to this Section.
- Section 791.80 Annual Cost Study Components**
- a) Depreciation.
 - 1) Depreciation shall represent the periodic recognition of investment cost as dictated by accounting rules (83 Il. Adm. Code 710). Depreciation costs for a service shall be computed based upon the projected life of plant at age zero underlying the depreciation rates most recently approved by the Commission. (For purposes of a cost study submitted in a rate proceeding which includes a depreciation representation proposal, a telecommunications carrier may, as an alternative, use the projected life of plant at age zero filed for approval in that proceeding, subject to final Commission action on representation proposal.)
 - 2) For a carrier seeking approval of an alternative regulatory plan under Section 13-506.1 of the Act, the Commission shall make a finding of, or adopt a methodology for determining the projected life of, plant at year zero underlying the carrier's rates of depreciation for purposes of this Part in any order approving an alternative regulatory plan.
 - b) Cost of capital.
 - 1) The cost of capital associated with an investment shall be the weighted average of the carrier's costs of debt and equity applied to the net investment. The development of this component shall be based upon the current amount and weighted cost of debt. Carriers shall use the cost of equity approved by the Commission in the carrier's last rate case. (For purposes of a cost study submitted in a rate proceeding in which the telecommunications carrier is presenting evidence on its cost of capital, the telecommunications carrier may, as an alternative, base the

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return components upon the costs submitted in the proceeding, subject to the final Commission action on such issue.)

- 2) For a carrier seeking approval of an alternative regulatory plan under Section 13-506.1 of the Act, the Commission shall make a finding of, or adopt a methodology for determining the carrier's cost of, equity for purposes of this Part in any order approving an alternative regulatory plan.

- c) Federal, State, and local income taxes. The Federal, State, and local income tax expenses shall be determined based on rates which are expected to be in effect at the time of the cost study development for the service. Since Federal, State, and local taxes are applicable, recognition shall be given to the "tax-on-tax" situation that results from the deductibility of State and local tax when Federal taxes are paid.

- d) Maintenance. Maintenance costs are those costs incurred to keep equipment resources in usable condition and the cost incurred to rearrange cable or other facilities, if applicable. In calculating the cost of a service, the carrier may use an investment-related annual maintenance factor to arrive at an annual maintenance cost estimate or service-specific maintenance cost for the service. If a maintenance factor is used, the factor shall be specific to investment and Expense accounts associated with the service. Maintenance costs may be based upon historical costs if it can be demonstrated that those historical costs are relevant to the study of forward-looking costs.

- e) Ad valorem taxes. For telecommunications services, an ad valorem tax factor shall be applied against investment. This factor shall be based on the quotient of the most current ad valorem taxes paid by the carrier divided by the carrier's total current investment.

- f) Other costs. Other service-specific costs shall be identified and attributed to particular services or groups of services and included in the cost study of those services or groups of services. These costs may be based upon historical costs if it can be demonstrated that those historical costs, in particular the estimated labor hours, are relevant to the study of forward-looking costs. In the case of labor costs, the carrier shall provide a breakdown of these costs to reflect loaded labor rates and estimated labor hours.

Section 791.90 Subsidy Tests

- a) A service is not being subsidized if the total revenue resulting from the service equals or exceeds the long-run service incremental cost of providing that service.
- b) A group of services is not being subsidized if the total revenue resulting from the group of services equals or exceeds the long-run service incremental cost of providing that group of services.

Section 791.100 Required LRSIC Filings

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An LRSIC study shall be filed with the Commission under the following circumstances:

- a) For the service when a carrier offering or providing noncompetitive services files a tariff to reclassify a previously noncompetitive service as competitive;
- b) For the service when a carrier offering or providing noncompetitive services files a tariff classifying a new service as competitive;
- c) For the facilities and functionalities that are not specifically tariffed and are utilized in providing a service subject to the requirements of Section 13-505.1 of the Act, when a tariff for a subject service is filed;
- d) For all noncompetitive services in any proceeding under Section 13-506.1 of the Act to implement an alternative form of regulation; or
- e) For a service when the Commission requests an LRSIC study in order to establish just and reasonable rates for such service.

Section 791.200 Aggregate Revenue Test for Competitive Services

- a) The competitive services of a carrier that provides both competitive and noncompetitive services shall provide revenues which equal or exceed the sum of the following:

- 1) The sum of the LRSIC's of all competitive services, less the LRSIC's of noncompetitive tariffed elements that are imputed into the costs of services subject to imputation;
 - 2) The sum of the imputed costs of the noncompetitive tariffed elements that are inputs to competitive services subject to imputation; and
 - 3) The common costs that are to be allocated to competitive services pursuant to the relative LRSIC method. The portion of common costs that shall be recovered by competitive services in the aggregate shall be equal to the ratio of the amount in subsection (a)(3)(A) to the amount in subsection (a)(3)(B):
 - A) The sum of the LRSIC's of all competitive services, less the LRSIC's of noncompetitive tariffed elements that are imputed into the costs of services subject to imputation; and
 - B) The sum of the LRSIC's of all noncompetitive and competitive services of the carrier.
- b) The aggregate revenue test shall be provided in the following proceedings:
- 1) In any proceeding approving, implementing, or evaluating an alternative form of regulation under Section 13-506.1 of the Act;
 - 2) In a general rate case;
 - 3) In a proceeding involving the introduction of a new competitive telecommunications service;
 - 4) In a proceeding to reclassify a non-competitive telecommunications service to competitive;
 - 5) Notwithstanding the provisions of subsections (b)(1), (2), (3), and (4) of this Section, and upon good cause shown, the aggregate

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revenue test shall be provided, upon motion of a party and order of the Hearing Examiner, in any other proceeding approving, investigating or establishing rates, charges, classifications or tariffs for telecommunications services offered by a telecommunications service provider that provides both competitive and non-competitive services. Any motion requesting an aggregate revenue test shall be filed within thirty days after the docketing of the underlying proceeding. Responses to such motions shall be filed within fourteen days after the filing of the motion. Failure to file the motion within thirty days after the docketing of the proceeding shall be an independent ground for denying the motion. Failure to file responses within fourteen days after the filing of the motion shall be an independent ground for granting the motion. Factors to be considered in determining the propriety of granting such a motion shall include but not be limited to:

- A) The length of time elapsed since the LEC last filed an aggregate revenue test;
- B) The revenues projected to be generated by the service or services under consideration compared with total company service revenues;
- C) The number of competitive and non-competitive services currently being offered by the LEC; and
- D) The cost associated with performing the aggregate revenue test.

- c) The carrier may file a petition pursuant to 83 Ill. Adm. Code 200 for a waiver of the requirement to use the methodology required by subsection (a)(3) to apportion costs common to the provision of both competitive and noncompetitive services. The waiver shall be granted within 90 days after the filing of a petition for waiver if the carrier can demonstrate that using the methodology required by subsection (a)(3) would be cost prohibitive or, in accordance with subsection (b)(3), would prevent a carrier from offering the new competitive service. To comply with Section 13-507 requiring a telecommunications carrier providing both competitive and noncompetitive services to recover the aggregate LRSIC's of its competitive services plus a proper and reasonable apportionment of common costs, a substitute allocator is required. The burden of proving the reasonableness of a substitute common cost allocation methodology shall be upon its proponent. The Commission reserves the right to authorize the use of superior methodologies apportioning common costs should they arise.

- d) For a carrier seeking approval of an alternative regulatory plan under Section 13-506.1 of the Act, the Commission shall make a finding of, or adopt a methodology for determining, the amount to be allocated for purposes of Section 791.200(a)(3) in any order approving an alternative regulatory plan.

- e) For the purposes of complying with subsections (b)(3), (4) and (5),

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any carrier with more than 25,000 access lines that earns gross annual revenues of less than \$100,000,000 shall have until February 1, 1997 to comply with Sections 791.40, 791.50, 791.60, 791.70 and 791.80. In lieu of preparing a LRSIC study, the carrier may provide alternative cost data. Nothing herein shall relieve such carriers from the requirements of Section 13-507 of the Act.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: David A. DeBolt Teacher Shortage Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2764

3) Section Numbers: Adopted Action:

2764.10	New
2764.20	New
2764.30	New
2764.40	New
2764.50	New

- 4) Statutory Authority: Implementing Section 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/65.55] and authorized by Sections 20(f) and 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.55]

- 5) Effective Date of Rulemaking: August 1, 1995

- 6) Does this rulemaking contain an automatic repeal date? No.

- 7) Does this rulemaking contain incorporations by reference? No.

- 8) Date Filed in Agency's Principal Office: July 21, 1995

- 9) Notice of Proposal Published in Illinois Register: March 31, 1995, 19 Ill. Reg. 4987

- 10) Has JC&R issued a Statement of Objections to these rules? No.

- 11) Difference(s) between proposal and final version: In addition to the minor or technical changes made in response to suggestions from the public and the Administrative Code Division, ISAC increased the maximum scholarship under this program from the originally proposed amount of \$3,000 to \$5,000. This figure was deemed to be more consistent with the awards under ISAC's other teach scholarship programs, more appropriate in light of the service requirement associated with this program, and more fair to continuing students who had been recipients of awards under previous programs, some of which had higher maximum awards.

- 12) Have all the changes agreed upon by the agency and JC&R been made as indicated in the agreement letter issued by JC&R? Yes.

- 13) Will this rulemaking replace an emergency rule currently in effect? No.

- 14) Are there any amendments pending on this Part? No.

- 15) Summary and Purpose of Rulemaking: Public Act 88-0228 transferred

ILLINOIS STUDENT ASSISTANCE COMMISSION

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administrative responsibility for ten scholarships and grant programs from the Illinois State Board of Education (ISBE) to ISAC. Seven of these programs were state-funded scholarship programs which were generally related to teaching. Importantly, the Act authorized ISAC to consolidate these programs "into one program whereby awards are made in the areas of outstanding students, minorities and shortage areas."

Following an intensive study of these programs, ISAC opted to exercise its statutory authority to restructure the seven previous programs into a single new program, the David A. DeBolt Teacher Shortage Scholarship. This new program encourages academically talented students to pursue careers as teachers in disciplines that have been designated as teacher shortage areas by the ISBE, with a priority given to minority applicants.

These adopted rules govern the administration of the new DeBolt Teacher Shortage Scholarship Program. These rules set forth the eligibility criteria for applicants, the selection criteria for DeBolt scholars, and the procedures for the awarding of assistance under this program.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708) 948-8500

The full text of the Adopted Amendment begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2764

DAVID A. DEBOLT TEACHER SHORTAGE SCHOLARSHIP PROGRAM

Section

2764.10 Summary and Purpose

2764.20 Definitions

2763.30 DeBolt Scholar Eligibility

2764.40 Program Procedures

2764.50 Institutional Procedures

AUTHORITY: Implementing Section 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/65.55] and authorized by Sections 20(f) and 65.55 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.55].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 750 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective AUG 01 1995.

Section 2764.10 Summary and Purpose

a) The David A. DeBolt Teacher Shortage Scholarship encourages academically talented students to pursue careers as public preschool, elementary and secondary school teachers in disciplines that have been designated as Teacher Shortage Disciplines in the State of Illinois with a priority given to Minority Students.

b) This Part establishes the rules which govern the David A. DeBolt Teacher Shortage Scholarship Program. Additional rules and definitions are contained in General Provisions, at 23 Ill. Adm. Code 2700. Defined terms are indicated by the first letter being capitalized.

Section 2764.20 Definitions

"Cost of Attendance" - defined at Section 472 of the Higher Education Act of 1965, as amended (20 U.S.C.A. 108711).

"Cumulative Grade Point Average" - The average grade earned throughout a student's postsecondary educational program. The calculation shall be consistent with the Institution's established policy or practice and shall be the same as that which is used for admission, placement, or other similar purposes.

"DeBolt Scholar" - An individual who receives scholarship assistance

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under this Part.

"Expected Family Contribution" - For the purposes of this Part, the Expected Family Contribution shall be the amount determined pursuant to Title IV, Part F of the Higher Education Act of 1965, as amended (20 U.S.C.A. 1087kk et seq.).

"Minority Student" - For the purposes of this Part, is defined at 23 Ill. Adm. Code 2763.20, Minority Teachers of Illinois (MTI) Scholarship Program, Definitions, "Minority Student".

"Qualified Applicant" - An Applicant who meets the requirements of Section 2764.30, DeBolt Scholar Eligibility.

"Renewal Applicant" - An Applicant who was a DeBolt Scholar during any Term of the prior Academic Year and who maintains eligibility in accordance with Section 2764.40(d) of this Part.

"Teacher Education Program" - A postsecondary course of study which, upon completion, qualifies a student to be certified as a preschool, elementary or secondary school teacher by the Illinois State Board of Education (ISBE). For a student who has completed less than four semesters/six quarters of postsecondary study, this includes a postsecondary course of study which leads to a Teacher Education Program.

"Teacher Shortage Discipline" - An academic discipline in which a shortage of teachers exists in Illinois, as designated by the ISBE.

Section 2764.30 DeBolt Scholar Eligibility

a) A completed application must be received in ISAC's Deerfield office on or before May 1 immediately preceding the Academic Year for which the scholarship is being requested, in order to receive priority consideration.

b) In addition to submitting an application on a timely basis, a Qualified Applicant must be:

1) a United States Citizen or an Eligible Noncitizen;

2) a Resident of Illinois;

3) a high school graduate or a person who has received a General Educational Development Certificate (GED); and

4) Enrolled, or accepted for enrollment, on at least a half-time basis at the sophomore level or above in a Teacher Education Program at an eligible Illinois public or private university or college and seeking initial certification in a Teacher Shortage Discipline.

c) Applicants will be notified if they are not Qualified Applicants. Such an Applicant may appeal a finding of ineligibility in accordance

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- with 23 Ill. Adm. Code 2700.70, Appeal Procedures.
- d) All Applicants must also apply for federal student financial aid to determine the expected family contribution (EFC) because the EFC will be used as part of the selection criteria for the purpose of determining eligibility for the DeBolt Teacher Shortage Scholarship.
- e) If the student section of an application is incomplete, notice will be sent to the Applicant. The Applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the student section is complete and received in ISAC's Deerfield office.

f) Prior to receiving scholarship assistance for any Academic Year, the Qualified Applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following:

- 1) a pledge on the part of the DeBolt Scholar to teach for one year for each year of scholarship aid received in the Teacher Shortage Discipline for which the recipient applied, or any portion of a year for which aid was received, under this Part;
 - 2) a stipulation that such teaching requirement will be fulfilled within the five-year period following termination of the postsecondary education degree or certificate program for which the scholarship was awarded;
 - 3) a stipulation that such teaching requirement will be fulfilled at an Illinois public preschool, elementary or secondary school; and
 - 4) a further stipulation that, if the teaching requirement is not fulfilled, the scholarship converts to a loan and the DeBolt Scholar must repay the entire amount of the scholarship(s) prorated to the fraction of the teaching obligation not completed, plus interest at a rate no greater than the highest rate applicable to student loans under the Federal Family Education Loan Program and, if applicable, reasonable collection fees.
- g) A DeBolt Scholar shall not be in violation of the teaching agreement, and thus shall not be required to commence repayment as set forth in subsection (f) of this Section, if the recipient:
- 1) serves, for not more than three years, as a member of the United States armed services;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (f)(3) of this Section, and is able to provide evidence of that fact; or
 - 4) withdraws from a course of study leading to a teacher certification in a Teacher Shortage Discipline, but remains enrolled at least half-time in another academic discipline.
- h) A DeBolt Scholar shall not be required to repay the amount of the scholarship(s) received if s/he becomes permanently totally disabled,

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as established by the sworn affidavit of a licensed physician (see e.g., 34 CFR 653.42(k)(i)), or if his or her representative provides ISAC with a death certificate or other evidence that the Scholar has died.

- i) Renewal Applicants may receive a subsequent award even if their discipline is no longer on the approved list of Teacher Shortage Disciplines.
- j) A DeBolt Scholar may receive up to 8 semesters/12 quarters of scholarship assistance under this program.
- k) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an Academic Year.

Section 2764.40 Program Procedures

- a) Applications for the DeBolt Teacher Shortage Scholarship Program are available from qualified institutions throughout Illinois, state legislative and federal congressional offices, and ISAC's Springfield, Deerfield and Chicago offices.
- b) ISAC shall accept applications to be a DeBolt Scholar (or Scholar) in accordance with Section 2764.30 of this Part, DeBolt Scholar Eligibility.
- c) ISAC shall identify Qualified Applicants from applications submitted by the established deadline date.
- d) ISAC shall select the DeBolt Scholars from among Qualified Applicants based on the following criteria:
 - 1) Cumulative Grade Point Average (GPA). Cumulative GPAs will be prioritized from the highest to the lowest. All GPAs will be converted to a four-point scale.
 - 2) Expected Family Contribution (EFC). EFCs will be prioritized from the lowest to the highest.
 - 3) Minority Student Status. Minority Students shall receive priority consideration.
 - 4) Renewal Applicant Status. Renewal Applicants shall receive priority consideration provided the student:
 - A) continues to maintain a Cumulative GPA of no less than 2.5 on a 4.0 scale;
 - B) maintains his or her status as a Qualified Applicant, as outlined in Section 2764.30(b) of this Part, DeBolt Scholar Eligibility;
 - C) continues to advance satisfactorily toward the attainment of a degree in a Teacher Shortage Discipline; and
 - D) has submitted an application on a timely basis.
 - 5) If all other criteria are equal, priority consideration will be given to the Qualified Applicant who submitted his or her completed application to ISAC on the earliest date.
- e) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.
- f) To the extent necessary to administer this program within the limits

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of the State appropriation, the Commission may adjust the priority consideration factors established by this Section.

- g) ISAC shall annually establish and publicize guidelines for the awarding of DeBolt Scholarships.
- h) Notice of eligibility shall be sent to each Qualified Applicant who is selected to receive a DeBolt Scholarship. A notice will be sent to each Qualified Applicant who is not selected to receive a DeBolt Scholarship.

Section 2764.50 Institutional Procedures

- a) The Institution shall submit application information for Qualified Applicants in sufficient time for ISAC to make award announcements.
- b) The Institution shall submit the certification of eligibility for Qualified Applicants with its request for payment.
- c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of Terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the Applicant's eligibility is not determined until the final term of the Academic Year for which the scholarship is being awarded or when a DeBolt Scholar is attending only one Term and the maximum award does not exceed the Scholar's Cost of Attendance.
- d) Funds shall be remitted by ISAC to Institutions on behalf of the DeBolt Scholar(s).
- e) Upon receipt of scholarship funds, the Institution shall verify the DeBolt Scholar's enrollment status. If the DeBolt Scholar is Enrolled, the Institution may credit the scholarship funds to the Scholar's account for expenses then due and payable. The balance of the disbursement shall be released to the Scholar. If the recipient has withdrawn from enrollment, the Institution shall return the total amount of the scholarship to ISAC.
- f) Scholarship Amount
 - 1) In accordance with this subsection, the Institution at which the DeBolt Scholar is enrolled shall compute the amount of the scholarship. The DeBolt Scholar must have reviewed and signed the Teaching Agreement/Promissory Note prior to the receipt of any scholarship assistance.
 - 2) DeBolt Teacher Shortage Scholarships are applicable only toward tuition and fee and room and board charges or commuter allowances, if applicable.
 - 3) The annual scholarship awarded to a Qualified Applicant must not exceed:
 - A) Tuition and fees plus room and board expenses charged by the Institution; or
 - B) Tuition and fees plus the Institution's standard cost of living allowance for students living off-campus; or
 - C) a maximum of \$5,000.
 - 4) The total amount of DeBolt Teacher Shortage Scholarship

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assistance awarded to a Qualified Applicant in a given Academic Year, when added to the other financial aid available to the Qualified Applicant for that year, cannot exceed the Cost of Attendance.

- 5) In any Academic Year in which the Qualified Applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship Program (23 Ill. Adm. Code 2763), or the Special Education Tuition Waiver Program (23 Ill. Adm. Code 2765), the Qualified Applicant shall not be eligible for scholarship assistance under this Part.
- 6) A Qualified Applicant may receive grant assistance under the Monetary Award Program (23 Ill. Adm. Code 2735) only up to the amount by which the DeBolt Scholar's Cost of Attendance exceeds the amount of the DeBolt Scholarship.

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Information Requests2) Code Citation: 2 Ill. Adm. Code 53763) Section Numbers: Adopted Action:

5376.10 Amended
 5376.20 Amended
 5376.110 Amended
 5376.120 Amended
 5376.210 Amended
 5376.220 Amended
 5376.310 Amended
 5376.320 Amended
 5376.410 Amended
 5376.420 Amended
 5376.430 Amended
 5376.Appendix A Amended

4) Statutory Authority: Implementing the Freedom of Information Act (5 ILCS 140) and Section 5-15(a) of the Administrative Procedure Act (5 ILCS 100/5-15(a)), and authorized by Section 20(f) of the Higher Education Student Assistance Act (110 ILCS 947/20(f)).

5) Effective Date of Rulemaking: August 1, 19956) Does this rulemaking contain an automatic repeal date? No.7) Does this rulemaking contain incorporations by reference? No.8) Date Filed in Agency's Principal Office: July 21, 1995

9) Notice of Proposal Published in Illinois Register: Not applicable. In accordance with Section 5-15(b) of the Illinois Administrative Procedure Act, there is no public comment period and ISAC can amend its internal rules by filing a certified copy with the Secretary of State. (5 ILCS 100/5-15(b))

10) Has JCAR issued a Statement of Objections to these rule(s)? Not applicable. There is no JCAR review of these rules, which govern the internal workings of this agency. (5 ILCS 100/5-15(b))

11) Difference(s) between proposal and final version: Not applicable for the reasons stated in number 9, above.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Not applicable for the reasons stated in number 9, above.

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13) Will this rulemaking replace an emergency rule currently in effect? No.14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Rulemaking: In addition to making minor technical and grammatical changes throughout this Part, ISAC has added costs for computer programming and processing to the fee schedule contained in Appendix A.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Raquel G. Martinez
 Compliance Counsel
 Illinois Student Assistance Commission
 1755 Lake Cook Road
 Deerfield, IL 60015
 (708) 948-8500

The full text of the Adopted Amendment begins on the next page:

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Commission) to Chapter XIV, 2 Ill. Adm. Code 5376 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17859, amended at 19 Ill. Reg. 11375, effective AUG 01 1995.

SUBPART A: INTRODUCTION

Section 5376.10 Summary and Purpose

- a) These rules are established to implement the provisions of the Freedom of Information Act [5 ILCS 140] (~~P.A. 83-1013--effective-July-17-19847 Supp.--to--Ill.--Stat.--1983--ch-1167--par-201-et-seq-7. The purpose of these rules is to support the policy of providing public access to the public records in the possession of the Illinois Student Assistance Commission (ISAC) while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.~~
- b) These rules create a procedure by which the public may request and obtain public records. Therefore, they are being filed in accordance with Section 4 4-01 of the Illinois Administrative Procedure Act [5 ILCS 140/4] (~~Ill.-Rev.-Stat.-1983--ch-127--Par-1004-017. Further, the terms used in these rules shall have the same meanings as those contained in the Freedom of Information Act.~~

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.20 Definitions

- a) ~~Terms--used--in--these--rules--shall--have--the--same--meaning--as--in--the Freedom--of--Information--Act--~~
- b) "FOIA" means the Freedom of Information Act [5 ILCS 140].
- c) "Freedom of Information Officer" means an individual responsible for receiving and responding to requests for public records.
- d) "Requester" means a person who submits a request for public records under the FOIA.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 5376.110 Person to Whom Requests are Submitted

Requests for public records shall be submitted to the ISAC Freedom of Information Officer at the following address: ~~Requests--shall--be--submitted--to the--following--address:~~

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NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER XIV: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 5376
INFORMATION REQUESTS

SUBPART A: INTRODUCTION

Section
5376.110 Summary and Purpose
5376.120 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section
5376.110 Person to Whom Requests are Submitted
5376.120 Form and Content of Requests

SUBPART C: PROCEDURES FOR RESPONSE TO REQUESTS
FOR PUBLIC RECORDS

Section
5376.210 Time Line ~~Timeline~~ for Response
5376.220 Types of Responses

SUBPART D: APPEAL PROCEDURES

Section
5376.310 Appeal of Denial
5376.320 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS

Section
5376.410 Inspection of Records
5376.420 Copies of Public Records
5376.430 General Materials Available from the ISAC

APPENDIX A Fee Schedule

AUTHORITY: Implementing the Freedom of Information Act [5 ILCS 140] and Section 5-15(a) of the Administrative Procedure Act [5 ILCS 100/5-15(a)], and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 8 Ill. Reg. 19069, effective September 26, 1984; transferred from Chapter XII, 2 Ill. Adm. Code 5376 (State Scholarship

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Freedom of Information Officer
Illinois Student Assistance Commission
1755 Lake Cook Rd. #02-Wilmot-Road
Deerfield, Illinois 60015-5209 600#5

ATTN: FOIA Request

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.120 Form and Content of Requests

- a) Requests may be made in writing or orally.
- b) Oral requests will be handled expeditiously. However, the required response times and the appeal procedures contained in the FOIA and these rules shall not apply to oral requests.
- c) A request for public records shall contain the following information:
- 1) the full name, address and telephone number of the requester;
 - 2) a specific Specific description of the public records sought; and
 - 3) whether the request is for inspection of public records, copies of public records, or both.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

SUBPART C: PROCEDURES FOR RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section 5376.210 Time Line-Timeline for Response

- a) The ISAC shall respond to a written request for public records within 7 working days after the receipt of such request.
- b) ISAC may notify the requestor than extension of time is necessary to respond to the request. ISAC shall provide written notice within 7 working days of receiving the request and shall state the reasons why an extension of time is necessary. The extension shall not exceed an additional 7 working days and can only be used for the reasons outlined in the FOIA. [5 ILCS 140/3(d)] The ISAC may give notice of an extension of time to respond which does not exceed an additional 7 working days. Such an extension is allowable only if written notice is provided within the original 7 working day time limit and only for the reasons provided in Section 3(d) of the FOIA. Such notice of extension shall state the reasons why the extension is necessary.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.220 Types of Responses

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- a) ISAC ~~the~~ shall respond to a request for public records in one of three ways:
- 1) approve ~~Approve~~ the request;
 - 2) approve ~~Approve~~ in part and deny in part; OR
 - 3) deny ~~Deny~~ the request;
- b) Upon the approval of a request for public records, the ISAC may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs, or give notice of the time and place for inspection of records.
- c) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial and shall disclose the names and titles of individuals responsible for the decision. It shall also give notice of the right to appeal to the Executive Director of the ISAC.
- d) Categorical requests creating an undue burden upon the ISAC shall be denied only after extending to the requester an opportunity ~~to~~ to--attempt to reduce the request to manageable proportions, in accordance with Section 3(f) of the FOIA.
- e) Failure to respond to a written request within 7 working days shall ~~may~~ be considered a denial of the request.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

SUBPART D: APPEAL PROCEDURES

Section 5376.310 Appeal of Denial

- a) A person whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director of the ISAC. The notice of appeal shall be made in writing and sent to:

Executive Director
Illinois Student Assistance Commission
500 West Monroe, 3rd Floor
Springfield, Illinois 62704-1876 62704
ATTN: FOIA Appeal

- b) The notice of appeal shall include a copy of the original request, a copy of the denial, and a statement of the reasons why the appeal should be granted.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.320 Executive Director's Response to Appeal

The Executive Director shall respond to an appeal within 7 working days after

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receiving notice thereof. The Executive Director shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days shall may be considered an affirmation of the denial.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS

Section 5376.410 Inspection of Records

- a) Generally, public records will be made available for inspection during the normal working hours of the ISAC.
- b) Documents which the person wishes to have copied shall be segregated during the course of the inspection. Generally, all copying shall be done by ISAC employees.
- c) An employee of the ISAC shall be present during throughout the inspection. The person requesting records may be prohibited from bringing bags, briefcases, or other containers into the inspection room.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.420 Copies of Public Records

- a) Copies of public records shall be provided only upon payment of any charges which are due.
- b) Charges for copies of public records shall be assessed in accordance with the "Fee Schedule for Duplication of Public Records" which is contained in Exhibit A of this Part attached-as-an-Appendix--to--these rules.
- c) Charges shall be waived if the request is from a State agency, a constitutional officer or a member of the General Assembly. Charges may be waived in any other case where the Freedom of Information Officer determines that the waiver serves the public interest and in all cases where the total of material requested does not exceed ten pages.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

Section 5376.430 General Materials Available from the ISAC

The ISAC shall make available--to--the--public--at--no-charge the following materials available to the public at no charge:

- a) A brief description of the organizational structure and budget of the ISAC.

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NOTICE OF ADOPTED AMENDMENTS

- b) A brief description of the means for requesting information and public records; and
- c) A list of types and categories of public records maintained by the ISAC.

(Source: Amended at 19 Ill. Reg. 11375, effective AUG 01 1995)

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Section 5376.APPENDIX A Fee Schedule

a) Type of Duplication

Per Copy Charge

Paper copy from paper original
(possibly different charges for different sizes) \$.25
Paper copy from microfiche original
(possibly different charges for different sizes) \$.50

b) Data Retrieval from Mainframe Computer Systems

Per hour charge

Computer programming time \$ 25.00
Computer processing time \$1,925.00

(Source: Amended at 19 Ill. Reg. 11375, effective
AUG 01 1995)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Information, Rulemaking and Organization2) Code Citation: 2 Ill. Adm. Code 5375

Section Numbers:	Adopted Action:
5375.10	Amended
5375.100	Amended
5375.210	Amended
5375.220	Amended
5375.230	Amended
5375.Appendix A	Amended

4) Statutory Authority: Implementing Section 5-15(a) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(a)] and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].5) Effective Date of Rulemaking: August 1, 19956) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) Date Filed in Agency's Principal Office: July 21, 19959) Notice of Proposal Published in Illinois Register: Not applicable. In accordance with Section 5-15(b) of the Illinois Administrative Procedure Act, there is no public comment period and ISAC can amend its internal rules by filing a certified copy with the Secretary of State. [5 ILCS 100/5-15(b)]10) Has JCAR issued a Statement of Objections to these rules? No. Not applicable. There is no JCAR review of these rules, which govern the internal workings of this agency. [5 ILCS 100/5-15(b)]11) Difference(s) between proposal and final version: Not applicable for the reasons stated in number 9, above.12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No. Not applicable for the reasons stated in number 9, above.13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rulemaking: In addition to making minor technical and grammatical amendments throughout this Part, these rules have been updated to reflect changes made to the internal organization of this

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agency.

16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Raquel G. Martinez
Compliance Counsel
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, IL 60015
(708)948-8500

The full text of the Adopted Amendment begins on the next page:

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TITLE 2: GOVERNMENTAL ORGANIZATION

SUBTITLE F: EDUCATIONAL AGENCIES

CHAPTER XIV: ILLINOIS STUDENT ASSISTANCE COMMISSION
PART 5375

PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
5375.10
Information

SUBPART B: RULEMAKING

Section
5375.100
Rulemaking Procedures

SUBPART C: ORGANIZATION

Section
5375.210 The Commission
5375.220 Agency Organization
5375.230 Procedures for Public Statements at Commission Meetings
APPENDIX A Organization Chart

AUTHORITY: Implementing Section 5-15(a) of the Illinois Administrative Procedure Act [5 ILCS 100/5-15(a)] and authorized by Section 20(f) of the Higher Education Student Assistance Law [10 ILCS 947/20(f)].

SOURCE: Adopted at 3 Ill. Reg. 4, p. 38, effective January 26, 1979; amended at 4 Ill. Reg. 16, p. 118, effective April 17, 1980; amended at 4 Ill. Reg. 34, p. 208, effective August 9, 1980; amended at 6 Ill. Reg. 8413, effective June 30, 1982; rules repealed and new rules adopted at 8 Ill. Reg. 2505, effective February 10, 1984; amended at 8 Ill. Reg. 17022, effective September 5, 1984; amended at 11 Reg. 17836, effective October 16, 1987; transferred from Chapter XII, 2 Ill. Adm. Code 5275 (State Scholarship Commission) to Chapter XIV, 2 Ill. Adm. Code 5275 (State Scholarship Commission) to Chapter XIV, 2 Ill. Adm. Code 5375 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17867; amended at 16 Ill. Reg. 7497, effective April 22, 1992; amended at 19 Ill. Reg. **11384**, effective

AUG 01 1995

SUBPART A: PUBLIC INFORMATION

Section 5375.10 Information

ILLINOIS STUDENT ASSISTANCE COMMISSION

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a) The locations and telephone numbers for location of ISAC offices are as follows:

- 1) 1755 Lake Cook Road #66--Winnetka--Road, Deerfield, Illinois 60015-5209, (708) 948-9500;
- 2) 100 W. Randolph Suite 3-200, Chicago, Illinois 60601-3293, (312) 814-3745; and 6344;
- 3) 500 West Monroe, 3rd floor, Springfield, Illinois 62704-1876, (217) 782-6767.

b) The Executive Director, Director of Research, Director of Agency Relations, Director of State Relations and their staffs are located in Springfield. The Deputy Executive Director and other Directors and support staffs for operations are located in Deerfield. Some Agency Relations staffs and Regional Division staffs also are located in Chicago. Agency officers' and directors' offices are located as follows:

- 1) Deerfield - Chief Program Officer; Claims & Collections; Program Services; Management Information Services; Policy, Implementation and Compliance; Accounting; IDAPP and Capital Development; Internal Audit; Human Resources and Development; and Deputy Director for External Relations;
- 2) Chicago - General Counsel; and
- 3) Springfield - Executive Director; Client Relations; Budget; Research, Planning and Policy Analysis; State Relations; Federal Relations; and Public Information.

c) ISAC's ISAE organizational structure is illustrated on the chart labeled Appendix A, of this Part.

d) The Commission has delegated to ISAC staff responsibility for the administration of all ISAC programs. See: 23 Ill. Adm. Code: Subtitle A, Chapter XIX. ISAC staff actions and decisions are reviewable by the Commission. See: 23 Ill. Adm. Code 2700.70.

e) The Executive Director and his or her designee, Deputy Executive Director and Finance and Administration, have authority to approve expenditures and contracts. The Commission, by resolution, may also delegate signatory authority to other members of the ISAC staff.

(Source: Amended at 19 Ill. Reg. 11384 effective AUG 01 1995)

Section 5375.230 Procedures for Public Statements at Commission Meetings

- a) Individuals, upon request, will be mailed an agenda and notice of all regularly scheduled Commission meetings.
- b) Persons desiring to address the Commission shall make a written request to the Executive Director no later than five business days prior to the meeting. Any such request must include the name and address of the individual wishing to speak, the name of the organization or group to be represented, if any, and a summary of the presentation.

ILLINOIS STUDENT ASSISTANCE COMMISSION

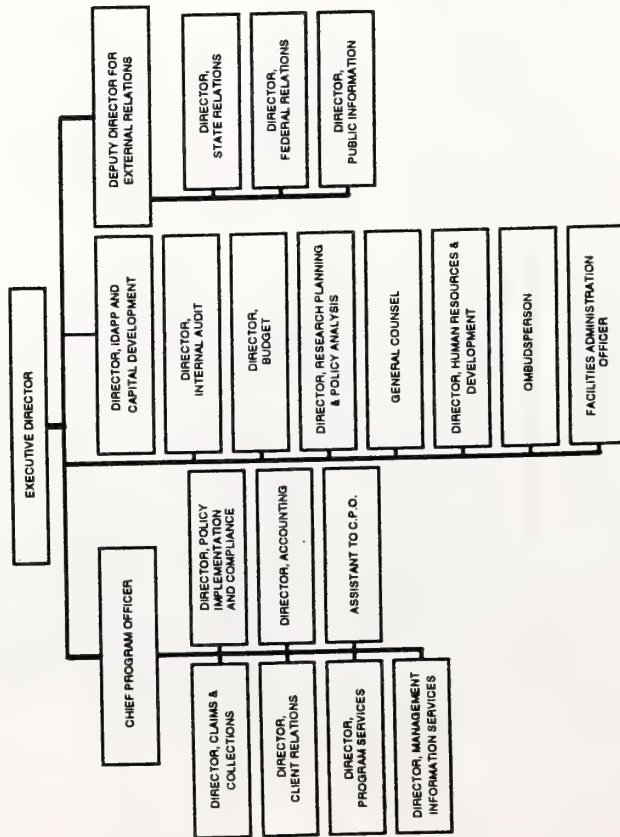
NOTICE OF ADOPTED AMENDMENTS

- c) All presentations shall be limited to a maximum of five uninterrupted minutes. When more than three persons desire to comment for or against a given issue/item, the Chairman may direct the group of similar voice to designate representatives so as not to exceed three voices for or three against the issue/item.
- d) The Chairman, with the consent of the members, can rule to recognize or not recognize any presenter who asks to address the Commission but who time and had not requested to do so time at an earlier date, but preference Preference will be given to those who had made written comments in writing.
- e) All presenters shall be encouraged, but not required, to submit their comments in writing.

(Source: Amended at 19 Ill. Reg. 11384, effective AUG 01 1995)

ILLINOIS STUDENT ASSISTANCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

Section 5375.APPENDIX A Organization Chart



(Source: Amended at 19 Ill. Reg. 11384, effective AUG 01-1995)

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

JULY 1995 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Illinois Promotion Act Programs, 14 Ill. Adm. Code 510

1) Rulemaking:

- A) Description: Section 510.150 of the Tourism Attraction Grant Program rules is being amended to reflect recent legislative action.
- B) Statutory Authority: Implementing and authorized by the Illinois Promotion Act (20 ILCS 665) (see Public Act 88-465).
- C) Scheduled meeting/hearing date: None at this time.
- D) Date agency anticipates First Notice: September 15, 1995.
- E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking may have some effect on small businesses, small municipalities and not for profit corporations.
- F) Agency contact person for information:

Marilyn Hurst
IL Department of Commerce & Community Affairs
620 East Adams Street
Springfield, IL 62701
(217) 524-2998

G) Related rulemakings and other pertinent information: None.

b) Part(s) (Heading and Code Citation): Public Infrastructure Loan and Grant Programs, 14 Ill. Adm. Code 610

1) Rulemaking:

- A) Description: Implements amendments to the Public Infrastructure Loan and Grant Program; specifically, increases the maximum allowable term for Affordable Financing of Public Infrastructure program loans from 3 to 10 years and deletes the requirement that a capital improvements plan be prepared.
- B) Statutory Authority: Implementing and authorized by the Public Infrastructure Loan and Grant Program Act (30 ILCS 750/Art.8) (see Public Act 89-453).
- C) Schedule meeting/hearing date: No schedule has been set as of

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

JULY 1995 REGULATORY AGENDA

yet.

- D) Date agency anticipates First Notice: November, 1995.
- E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking may have some effect on small businesses, small municipalities and not for profit corporations.
- F) Agency contact person for information:
 Mark Gauss
 IL Department of Commerce & Community Affairs
 620 East Adams Street
 Springfield, IL 62701
 (217) 785-6193
- G) Related rulemakings and other pertinent information: None.

- c) Part(s) (Heading and Code Citation): State Administration of the Federal Community Development Program for Small Cities, 47 Ill. Adm. Code 110

1) Rulemaking:

- A) Description: The rules governing the State Community Block Grant Program, known in Illinois as the Community Development Assistance Program (CDAP), are being amended to make consistent with the State's Consolidated Plan Submission to the U.S. Department of Housing and Urban Development.

- B) Statutory Authority: Section 104 of Title I of the Housing and Community Development Act of 1976 as amended and Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.42].

- C) Scheduled meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: September 15, 1995.

- E) Affect on small businesses, small municipalities or not for profit corporations: Small municipalities are encouraged to apply for these funds.

- F) Agency contact person for information:

Jean Thomas
 IL Department of Commerce & Community Affairs

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

JULY 1995 REGULATORY AGENDA

620 East Adams Street
 Springfield, IL 62701
 (217) 782-6136

- G) Related rulemakings and other pertinent information: None.

- d) Part(s) (Heading and Code Citation): State Administration of the Federal Community Services Block Grant Program, 47 Ill. Adm. Code 120

1) Rulemaking:

- A) Description: This rulemaking will revise the Department's rules to conform with changes made in the federal Community Services Block Grant Act in 1994. A new provision will be added to allow Community Action Agencies to operate a Micro Loan Program.

- B) Statutory Authority: Implementing the Illinois Economic Opportunity Act (20 ILCS 625/1) and authorized by Section 46.42 of the Civil Administrative Code of Illinois [20 ILCS 605/46.42].

- C) Scheduled meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: September 15, 1995.

- E) Affect on small businesses, small municipalities or not for profit corporations: This rulemaking may have some effect on not for profit corporations.

- F) Agency contact person for information:

Gray Warrner
 IL Department of Commerce & Community Affairs
 620 East Adams Street
 Springfield, IL 62701
 (217) 785-6146

- G) Related rulemakings and other pertinent information: None.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act
Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 1995. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Addition Modifications
Bond Premium Amortization
Dividends
Interest
Net Operating Loss
Zero Coupon Bonds
Other Rulings (Not Included Above)
Administrative Review
Allocation (For Alternative Apportionment Rulings, See that heading)
Alternative Apportionment
Amnesty
Apportionment
Financial Organizations
Insurance Companies
Payroll Factor
Property Factor

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Sales Factor
Transportation Services
Other Rulings (Not Included Above)
Assessment
Bankruptcy
Base Income (Also See Addition Modifications, Fringe Benefits, Subtraction Modifications)
Books and Records
Bulk Sales: See Sales Outside the Ordinary Course of Business (Bulk Sales)
Business Income
Capital Gains (Losses) (Also See Subtraction Modifications - Valuation Limitation)
Check Off Funds
Circuit Breaker
Claims for Refund: See Refunds
Collection
Combined Unitary Return (Also See Unitary)
Commercial Domicile
Compensation
Composite Returns
Confidentiality
Credits
Coal Research and Utilization
Credit for Replacement Tax Paid
Credit for Residential Real Property Taxes
Enterprise Zone Investment
Foreign Tax
High Impact Business Investment
Jobs Tax
Replacement Tax Investment
Research and Development
Training Expense
Other Rulings (Not Included Above)
Deficiencies
Definitions
Domestic International Sales Corporations (DISCs)
Elections: See Combined Unitary Return, Extensions, Unitary Enterprise Zones (Also See Credits, Subtraction Modifications)
Erroneous Refund: See Refunds
Estates
Estimated Tax
Exempt Organizations
Exemptions
Extensions
Failure to File: See Penalties
Failure to Pay: See Penalties
Farmers: See Estimated Tax

DEPARTMENT OF REVENUE

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Federal Returns
 Fiduciaries
 Financial Organizations: See Apportionment
 Foreclosure
 Foreign Sales Corporations (FSC's)
 Foreign Tax: See Credits
 Foreign Trade Zones: See Subtraction Modifications, Credits--Jobs Tax Forms
 Fraud: See Penalties
 Fringe Benefits
 IRC Section 125 "Cafeteria" Plans
 IRC Section 401(k) Plans
 Other Rulings (Not Included Above)
 Gain (Loss): See Capital Gains (Losses), Valuation Limitation
 Information Reports
 Insurance Companies: See Apportionment
 Interest Income (Also See Addition Modifications, Subtraction Modifications)
 Interest on Refunds and Deficiencies
 IRC Section 338
 Jeopardy: See Assessment
 Judicial Review
 Liens
 Limited Liability Companies
 Lottery
 Military (Also See Subtraction Modifications)
 Miscellaneous
 Modification Addition: See Addition Modifications
 Modification Subtraction: See Subtraction Modifications
 Mutual Funds: See Subtraction Modifications
 Net Income (Loss) and Net Loss Deduction (IITA Section 207) (Also See Base Income, Capital Gains (Losses), Combined Unitary Return, Net Operating Loss and Net Operating Loss Deduction)
 Net Operating Loss and Net Operating Loss Deduction
 Nexus: See Public Law 89-272/Nexus
 Nonbusiness Income
 Nonresidents: See Residency/Nonresidency
 Notice and Demand: See Notices
 Notices
 Nuclear Decommissioning Trusts
 Overpayments: See Refunds
 Partnerships
 Payments
 Payroll Factor: See Apportionment
 Penalties
 Failure to File (IITA Section 1001)
 Failure to File Withholding Returns (IITA Section 1004)
 Failure to Pay (IITA Section 1002)

DEPARTMENT OF REVENUE

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Failure to Pay Estimated Tax (IITA Section 804)
 Fraud (IITA Section 1002)
 Reasonable Cause (IITA Section 1001)
 Underpayment of Tax (IITA Section 1005)
 Other Rulings (Not Included Above)
 Pensions (Also See Subtraction Modifications)
 Political Organizations
 Professional Athletes
 Property Factor: See Apportionment
 Property Tax: See Subtraction Modifications
 Protest
 Public Law 86-272/Nexus
 Rate of Tax
 Real Estate Investment Trusts
 Reasonable Cause: See Penalties
 Refunds (Also See Subtraction Modifications)
 Statute of Limitations
 Other Rulings (Not Included Above)
 Regulated Investment Companies
 Replacement Tax (Also See Credits)
 Requirements of Requests for General Information Letters
 Requirements of Requests for Private Letter Rulings
 Residency/Nonresidency
 Returns (For Combined Unitary Return and Composite Return rulings, see those headings)
 Amended Returns
 Due Dates
 Requirements to File
 Short Period Returns
 Other Rulings (Not Included Above)
 S Corporations
 Sales Factor: See Apportionment
 Sales Outside the Ordinary Course of Business (Bulk Sales)
 Seizure
 Separate Accounting: See Alternative Apportionment
 Signature
 Specific Accounting
 Statute of Limitations: See Assessment, Collection, Deficiencies, Refunds
 Subchapter 'S' Corporations: See S Corporations
 Subpart F Income: See Subtraction Modifications
 Subtraction Modifications
 Bond Premium Amortization
 Enterprise and Foreign Trade Zones
 Illinois Tax Refund
 Interest on U.S. Government Obligations
 Military
 Money Market Mutual Funds

DEPARTMENT OF REVENUE
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Qualified Pension Plans
Real Estate Taxes
Subpart F Income
Transportation Services
Valuation Limitation
Other Rulings (Not Included Above)
Taxability in Other States
Taxable Year
Transferees (Also See Sales Outside the Ordinary Course of Business (Bulk Sales))
Transportation Services: See Apportionment
Trusts
Uniform Penalty and Interest Act
Unitary
(Also See Combined Unitary Return)
U.S. Government Obligations: See Subtraction Modifications
Valuation Limitation: See Subtraction Modifications
Voluntary Disclosure Agreements
Waiver on Assessments: See Assessment
Withholding
Employee Benefits
Exemptions
Personal Service Contracts
(IITA Section 1405.2)
Reciprocal Agreements
Other Rulings (Not Included Above)

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25 cents per page for each page over one.

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, and 1994, are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Office of the General Counsel
101 West Jefferson Street
Springfield, Illinois 62794
(217) 782-6996

DEPARTMENT OF REVENUE
NOTICE OF PUBLIC INFORMATION

1995 SECOND QUARTER SUNSHINE INDEX
ALTERNATIVE ALLOCATION

IT 95-0097 *General Information Letter:* 06/14/1995 Section 304(f) of the Illinois Income Tax Act allows the Director of the Department of Revenue, in his discretion, to authorize taxpayers to utilize an alternative allocation method for reporting income to Illinois in exceptional circumstances. The Department has adopted rules that set forth the procedural requirements for petitioning the Department for alternative apportionment and explain the substantive showing that must be made in order for a petition to be granted (See 86 Ill. Adm. Code 100.3190).

APPORTIONMENT - SALES FACTOR

IT 95-0080 *General Information Letter:* 05/17/1995 IITA Section 304(a)(3)(B)(ii) provides that a sale of tangible personal property is in this State if "the property is shipped from an office, store, warehouse, factory or other place of storage in this State and either the purchaser is the United States government or the person is not taxable in the state of the purchaser...."

IT 95-0089 *General Information Letter:* 05/30/1995 Section 304(a)(3)(C) of the Illinois Income Tax Act provides that sales, other than sales of tangible personal property, are in this State if the income-producing activity is performed in this State, or the income-producing activity is performed both within and without this State and a greater proportion of the income-producing activity is performed within this State than without this State, based on the cost of performance.

APPORTIONMENT -TRANSPORTATION SERVICES

IT 95-0103 *General Information Letter:* 06/26/1995 Section 304(d) provides that business income derived from furnishing transportation services, other than that derived from transportation by pipeline, shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the revenue miles of the (company) in this State, and the denominator of which is the revenue miles of the (company) everywhere.

BASE INCOME

(Also See Addition Modifications, Fringe Benefits, Subtraction Modifications)

IT 95-0062 *General Information Letter:* 04/07/1995 Section 203 of the Illinois Income Tax Act requires that the starting point of a

DEPARTMENT OF REVENUE

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taxpayer's base income is an amount equal to the taxpayer's federal adjusted gross income subject to certain addition and subtraction modifications.

IT 95-0067 *General Information Letter:* 04/18/1995 Section 203(e)(1) of the Illinois Income Tax Act provides that a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income, or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the IRC.

IT 95-0068 *General Information Letter:* 04/20/1995 Section 203 of the Illinois Income Tax Act defines base income, in the case of an individual, as federal adjusted gross income subject to certain statutory modifications.

IT 95-0070 *General Information Letter:* 04/26/1995 Section 203 of the Illinois Income Tax defines base income, in the case of an individual, as federal adjusted gross income subject to certain statutory modifications set forth in Section 203.

IT 95-0099 *General Information Letter:* 06/20/1995 According to Section 203(a)(1) of the Illinois Income Tax Act, this state begins with federal adjusted gross income in computing Illinois base income in the case of an individual.

IT 95-0105 *General Information Letter:* 06/28/1995 Response to a tax protestor who argued that wages are not income under the State and Federal constitutions. The taxpayer was advised that over the years, these types of arguments have routinely been rejected by the courts.

**BULK SALES: SEE SALES OUTSIDE THE ORDINARY COURSE OF BUSINESS
(BULK SALES)**

IT 95-0073 *General Information Letter:* 05/01/1995 Section 902(d) of the Illinois Income Tax Act applies to any business that is subject to the provisions of the Illinois Income Tax Act. The bulk sales reporting requirements and obligations of Section 902(d) apply to any taxpayer who, outside the usual course of business, sells or transfers the major part of any one or more of the following business assets: (A) stock of goods; (B) furniture and fixtures; (C) machinery and equipment; and (D) real property.

BUSINESS INCOME

IT 95-0071 *General Information Letter:* 04/26/1995 Business income is defined as income arising from transactions and activity in the regular

DEPARTMENT OF REVENUE

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course of the taxpayer's trade or business, net of the deductions allocable thereto, and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

COMMERCIAL DOMICILE

IT 95-0092 *General Information Letter:* 06/02/1995 The term "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

COMPENSATION

IT 95-0090 *General Information Letter:* 05/31/1995 Pursuant to Section 302(a) of the Illinois Income Tax Act, all items of compensation paid in Illinois to an individual nonresident and the items of deduction allocable thereto are allocated to Illinois.

CREDITS - FOREIGN TAX

IT 95-0083 *General Information Letter:* 05/19/1995 Section 601(b)(3) of the Illinois Income Tax Act provides in pertinent part that "the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by subsections 201(a) and (b) of this Act shall be credited against the tax imposed by subsections 201(a) and (b) otherwise due under this Act for such taxable year."

IT 95-0096 *General Information Letter:* 06/14/1995 Sections 100.2100(e)(8)(A) and 100.2101(e)(8)(A) both state that agricultural activities such as cultivating the soil; raising or harvesting crops; the production of seed or seedlings; and the development of hybrid seeds, plants, or shoots are not manufacturing operations. The raising or breeding of livestock, poultry, fish or any other animals, as well as commercial fishing or beekeeping, is not manufacturing.

IT 95-0101 *General Information Letter:* 06/21/1995 Section 601(b)(3) of the Illinois Income Tax Act provides that the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by this State shall be credited against the Illinois income tax liability of the resident.

EXEMPT ORGANIZATIONS

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IT 95-0072 *General Information Letter:* 04/27/1995 An organization which is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also exempt from Illinois income taxation unless it earns unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

IT 95-0098 *General Information Letter:* 06/16/1995 Pursuant to Section 205(a) of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation, unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code. This exemption would include an exemption from income tax, including the personal property tax replacement income tax and estimated tax payments.

EXEMPTIONS

IT 95-0069 *General Information Letter:* 04/20/1995 Homeowner's Associations are subject to Illinois income and replacement taxes on the taxable income (nonexempt function income) that is reported on federal form 1120-H.

IT 95-0081 *General Information Letter:* 05/17/1995 Pursuant to Section 205(a) of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

IT 95-0088 *Exemptions - General Information Letter:* 05/25/1995 Pursuant to Section 205(a) of the Illinois Income Tax Act, an organization that is exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code is also, without application, exempt from Illinois income taxation unless it has unrelated business taxable income as determined under Section 512 of the Internal Revenue Code.

MISCELLANEOUS

IT 95-0084 *General Information Letter:* 05/22/1995 This letter responds to arguments raised by a tax protestor who asserts that he is not subject to the federal or Illinois income taxes.

IT 95-0087 *General Information Letter:* 05/25/1995 This letter responds to arguments raised by husband and wife tax protestors who assert that they are not subject to the federal or Illinois income taxes.

DEPARTMENT OF REVENUE

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IT 95-0104 *General Information Letter:* 06/28/1995 Response to an annual survey.

PENALTIES - FAILURE TO FILE (IITA Section 1001)

IT 95-0076 *General Information Letter:* 05/04/1995 This letter discusses whether a taxpayer is subject to penalties and interest for failing to file Illinois income tax returns for the years 1984 through 1990 if the application of pre-1986 net operating loss carryforwards reduces the taxpayer's Illinois taxable income to zero.

PENALTIES - OTHER RULINGS

IT 95-0100 *General Information Letter:* 06/20/1995 In *Illinois v. Wendt*, 183 Ill. App. 3d 389 (1989) the court held that the willful failure to file an income tax return is committed, and the requisite mental element is established as a criminal offense, when the defendant knowingly acts with conscious awareness that a willful failure to file his return is practically certain to be caused by his conduct. The court held that the defendant's contentions that the evidence of willfulness was insufficient because he truly believed he was not committing any offense were without merit.

PUBLIC LAW 86-272/NEXUS

IT 95-0058 *General Information Letter:* 04/03/1995 General discussion of nexus principles.

IT 95-0060 *General Information Letter:* 04/05/1995 General discussion of nexus principles with respect to the activities of a trucking company.

IT 95-0063 *General Information Letter:* 04/10/1995 General discussion of nexus principles along with a discussion of the manner in which the Department's draft nexus rules would apply to the fact situation presented, if those rules are adopted through the rulemaking process.

IT 95-0065 *General Information Letter:* 04/13/1995 General discussion of nexus principles.

REPLACEMENT TAX

IT 95-0059 *General Information Letter:* 04/05/1995 It is the Department's position that the 1970 Constitution of the State of Illinois prohibits the allocation of funds from the Personal Property Tax Replacement Income Tax to districts that were not allocated funds

DEPARTMENT OF REVENUE

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generated by Illinois' Personal Property Taxes.

IT 95-0061 *General Information Letter:* 04/07/1995 With respect to the computation of the amount of personal property tax replacement income tax payable to each recipient, each quarterly allocation is first apportioned in the following manner: 51.65% for taxing districts in Cook County and 48.35% for taxing districts in the remainder of the State.

REQUIREMENTS OF REQUESTS FOR PRIVATE LETTER RULINGS

IT 95-0095 *General Information Letter:* 06/07/1995 Private Letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. The question of whether a library district is a successor taxing district for purposes of receipt of personal property tax replacement income tax funds is a question to be resolved between the village and the library district. If the Department were to issue a PLR in this instance it would be interjecting itself into a disagreement that would more appropriately be resolved by the village and the library district.

SUBTRACTION MODIFICATIONS - ENTERPRISE AND FOREIGN TRADE ZONES

IT 95-0075 *General Information Letter:* 05/03/95 Section 203 of the Illinois Income Tax Act allows taxpayers a subtraction modification for dividends received from a corporation which conducts substantially all of its business in an Enterprise Zone or zones. To qualify for the subtraction, the company must be able to show that 95 percent or more of the company's operations are conducted in an Enterprise Zone for the tax year covered by the dividends.

IT 95-0078 *Private Letter Ruling:* 05/16/1995 Based upon the information contained in the ruling request the Department ruled that dividends paid by the company qualify for the Enterprise Zone Dividend subtraction.

IT 95-0079 *Private Letter Ruling:* 05/17/1995 This private letter ruling that dividends paid by the company are eligible for the Enterprise Zone Dividend subtraction is effective for dividends paid during the current tax year and for future years with respect to which all representations as to eligibility for the subtraction made in the taxpayer's ruling request remain accurate.

IT 95-0086 *Private Letter Ruling:* 05/24/1995 Based upon the information contained in the ruling request, the Department ruled that the dividends paid by the company qualify for the Enterprise Zone Dividend subtraction authorized by Sections 203(a)(2)(J),

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(b)(2)(K), (c)(2)(M) and (d)(2)(K) of the Illinois Income Tax Act.

SUBTRACTION MODIFICATIONS - QUALIFIED PENSION PLANS

IT 95-0082 *General Information Letter:* 05/17/1995 Section 203(a)(2)(F) of the Illinois Income Tax Act provides a subtraction modification from adjusted gross income for distributions received from any retirement or disability plan for employees of any governmental agency if the distributions were included in the computation of federal adjusted gross income.

IT 95-0085 *General Information Letter:* 05/23/1995 Section 203(a)(2)(F) of the Illinois Income Tax Act provides that an amount equal to all amounts included in an individual's gross income pursuant to a federally tax-qualified plan or as a distribution under the provisions of any retirement or disability plan for employees of any governmental agency or unit are subtractions (deductions) from adjusted gross income.

IT 95-0091 *General Information Letter:* 06/01/1995 Section 203(a)(2)(F) of the Illinois Income Tax Act provides that an amount equal to all amounts included in an individual's gross income pursuant to a federally tax-qualified plan or as a distribution under the provisions of any retirement or disability plan for employees of any governmental agency or unit are subtractions from adjusted gross income.

SUBTRACTION MODIFICATIONS - SUBPART F INCOME

IT 95-0102 *General Information Letter:* 06/23/1995 Section 203(b)(2)(O) specifically permits the deduction of Subpart F income which is included in a corporate taxpayer's federal taxable income.

SUBTRACTION MODIFICATIONS - OTHER RULINGS

IT 95-0077 *General Information Letter* 05/04/1995 Section 100.2470(f) of the Department's rules provides that "income from state and local obligations is not exempt from Illinois income tax except where authorizing legislation adopted after August 1, 1969, specifically provides for an exemption."

TRUSTS

IT 95-0064 *General Information Letter:* 04/13/1995 According to Section 803 of the Illinois Income Tax Act, every taxpayer other than an estate, trust, partnership, Subchapter S corporation or farmer is required to pay estimated tax for the taxable year if the amount payable as estimated tax can reasonably be expected to be more

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than \$250, or \$400 for corporations. Therefore, the trust about which the taxpayer inquired is not required to make estimated tax payments.

IT 95-0066 General Information Letter: 04/14/1995 For Illinois income tax purposes, a trust is an Illinois resident if it is created by a will of a decedent who at his death was domiciled in this State, or is an irrevocable trust, the grantor of which was domiciled in this State, at the time such trust became irrevocable (see IITA Sections 1501(a)(20)(C) and (D)).

IT 95-0094 Trusts - General Information Letter: 06/07/1995 For Illinois income tax purposes, a trust is a resident of this State if it is either created by a will of a decedent who at his death was domiciled in this State or an irrevocable trust, the grantor of which was domiciled in this State at the time such trust became irrevocable (See IITA Section 1501(a)(20)(C) and (D)).

WITHHOLDING - OTHER RULINGS

IT 95-0074 General Information Letter: 05/01/1995 Section 100.7080 of the Department's rules provides that if an employer erroneously overwithholds an amount of tax required to be deducted and withheld from compensation paid to an employee, repayment of such overwithheld amount shall be made in the same calendar year.

IT 95-0093 General Information Letter: 06/02/1995 Section 100.7010(g) of the Department's rules provides that payments made under certain contractual deferred compensation agreements for service rendered at an earlier date are deemed not to be compensation paid in this state for purposes of withholding if an individual receives such payments while a nonresident. However, it should be noted that Section 100.7010(g) also provides that a recipient of such payments may be subject to Illinois income taxation.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act Citation: Ill. Rev. Stat. 1991, ch. 127, par. 2001 (20 ILCS 2515/1)

2. Summary of information:

Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the First Quarter of 1995. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 86 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 86 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Agents
Agricultural Producers and Products
Assessments
Automobile Renting Tax
Bingo
Books and Records
Bulk Sales
C.O.A.D.
Certificate of Registration
Charitable Games
Cigarette Tax
Claims for Credit
Coal Fueled Devices
Coal Mining Equipment
Coins & Precious Metals
Manufacturing Machinery & Equipment
Medical Appliances

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Miscellaneous
Motor Fuel Tax
Motor Vehicles
Newsprint & Ink
Nexus
Nonprofit Insitutions
Occasional Sale
Oil Field Equipment
Penalties
Pollution Control Facilities
Prepaid Sales Tax
Products of Photoprocessing
Property Tax
Computer Software
Construction Contractors
Cooperative Associations
Delivery Charges
Distillation Machinery
Drug Tax Stamps
Drugs
Enterprise Zones
Exempt Organizations
Farm Machinery & Equipment
Federal Excise Tax
Financial Institutions
Food
Food, Drugs & Medical Appliances
Governmental Bodies
Graphic Arts
Gross Receipts
Hotel Operators' Tax
Interest
Interstate Commerce
Itinerant Vendors
Invested Capital Tax
Leasing
Liquor Tax
Local Taxes
Mandatory Service Charges
Manufacturer's Purchase Credit
Manufacturers
Public Utility Taxes
Real Estate Transfer Tax
Repairs
Replacement Vehicle Tax
Returns
Rolling Stock Exemption
Sale at Retail

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Sale for Resale
Sale of Service
Signature
Special Order
Statute of Limitations
Tax Collection
Tax Increment Financing
Tax Rate
Telecommunications Excise Tax
Temporary Storage
Tire User Fee
Trade-Ins
Use Tax
Vehicle Use Tax
Vendors

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 25¢ per page for each page over one.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Margaret Forth
Office of General Counsel
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-6996

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1995 FIRST QUARTER SUNSHINE INDEX

AGRICULTURAL PRODUCERS AND PRODUCTS

95-0046 01/23/1995 Solar salt, which is used as a water purifier for the care/production of swine and dairy cows, qualifies for the Farm Chemicals exemption. (This is a GIL.)

AUTOMOBILE RENTING TAX

95-0065 02/08/1995 Leasing of vans may be subject to the Automobile Renting Occupation Tax Act when the lease periods for the vans are one year or less. If the vans rented are passenger vans, then the gross receipts from these rentals are subject to the Automobile Renting Occupation Tax. If the vans are cargo vans, then the rentals of these vans are not subject to the Automobile Renting Occupation Tax. (This is a GIL.)

BINGO

95-0034 01/20/1995 A federal government installation needs to obtain licenses for bingo and charitable games from the Department in order to conduct bingo and Monte Carlo events respectively at the center when there is concurrent federal and state legal jurisdiction at the installation and the applicable Federal regulation provides that bingo, Monte Carlo events, and raffles must and will conform to State and local requirements. In order to conduct raffles, the installation should contact the county or municipality in which it is located about acquiring a license to operate raffles at the center since the Department does not regulate raffles. (This is a GIL.)

95-0090

02/28/1995 A retailer selling items to an organization that uses those items to conduct bingo games will incur a Retailers' Occupation Tax liability, unless the purchaser presents him with an "E" number. If the retailer makes sales of items which will be resold and not used by the purchaser, he must obtain a valid certificate of resale from the purchaser before the sale can be made tax-free.

BOOKS AND RECORDS

95-0017 01/17/1995 To properly claim an exemption, a taxpayer must provide competent evidence through its books and records that establishes that the taxpayer is entitled to the exemption. (This is a GIL.)

BULK SALES

95-0087 02/27/1995 When a taxpayer, outside the usual course of his

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\$1.50 business, sells or transfers the major part of any one or more of his assets, the purchase or transferee of the assets must file a notice of sale/transfer of business assets on Form NUC-542A with the Department no later than 10 days after the sale or transfer. (This is a GIL.)

CERTIFICATE OF REGISTRATION

95-0080 02/23/1995 Section 2a of the Illinois Retailers' Occupation Tax Act requires that a certificate of registration for a corporation include the name, title, social security number, and home address of each corporate officer. (This is a GIL.)

95-0140 03/15/1995 Illinois retailers making retail sales at Illinois swapmeets, flea markets, or as transient vendors must register with the Department and file monthly sales tax returns. However, if the selling would be considered an isolated or occasional sale of no longer wanted used personal property, such a sale would not be subject to tax. The seller must be able to document such a sale; otherwise, he or she will owe tax. (This is a GIL.)

CHARITABLE GAMES

95-0133 03/14/1995 For purposes of charitable games, a calendar year is the period from January 1 through December 31 of any given year. The Charitable Games Act provides that each licensee shall be permitted to conduct charitable games on not more than 4 days each year. 230 ILCS 30/8. Therefore, a charitable games weekend would constitute 2 days. (This is a GIL.)

CIGARETTE TAX

95-0008 01/13/1995 At the State level, the Cigarette Tax is imposed on the retailer so when the Retailers' Occupation Tax is calculated, it is based on the price of the cigarettes, including the Cigarette Tax. The Department does not administer any locally imposed taxes on cigarettes. (This is a GIL.)

95-0050 01/24/1995 A cigarette package containing a single cigarette qualifies as an original package under the Cigarette Tax Act. To comply with the Act, each one of the individual packages would be required to have a tax stamp affixed to it. (This is a GIL.)

95-0051 01/24/1995 A cigarette package containing a single cigarette qualifies as an original package under the Cigarette Tax Act. To comply with the Act, each one of the individual packages would be required to have a tax stamp affixed to it. (This is a GIL.)

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CLAIMS FOR CREDIT

95-0005 01/11/1995 Claims for credit and refunds can be made when a person shows that he paid tax to the Department as a result of a mistake of fact or law. Only the remitter of the tax erroneously paid to the Department is authorized to obtain a refund. (This is a GIL.)

95-0018 01/17/1995 This letter sets out the requirements for obtaining a claim for credit. (This is a GIL.)

95-0074 02/21/1995 A seller's determination as to whether it will make a refund of the amount of the tax to a customer and file a claim for credit is a matter between the seller and its customer. The Illinois Department of Revenue has no authority to compel a seller to refund taxes to a customer and file a claim for credit. (This is a GIL.)

COAL MINING EQUIPMENT

95-0139 03/15/1995 Gas detectors, whether hand-held or stand-alone, and self-rescuers, do not qualify for the Coal Mining Equipment exemption. (This is a GIL.)

COMPUTER SOFTWARE

95-0061 02/06/1995 This letter discusses the taxability of sales of canned and customized software, software updates and software maintenance contracts. (This is a GIL.)

95-0068 02/10/1995 A sale of "canned" computer software is a taxable retail sale. Charges for updates of canned software are treated as sales of canned software and are subject to tax. (This is a GIL.)

95-0151 03/29/1995 Value-added resellers who acquire software for relicensing or transfer to consumers after modification or adaptation of the software may acquire the software as a sale for resale by presenting their suppliers with valid certificates. (This is a GIL.)

95-0154 03/29/1995 The sale of canned computer software is a taxable retail sale. However, the sale of custom computer software is not a taxable retail sale. (This is a GIL.)

CONSTRUCTION CONTRACTORS

95-0141 03/15/1995 Construction contractors incur Use Tax liability on their cost price of tangible personal property incorporated into real estate. (This is a GIL.)

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95-0144 03/15/1995 In Illinois, construction contractors are deemed to be the users of building materials purchased by them for physical incorporation into real estate. As such, construction contractors incur Use Tax liability on these items. (This is a GIL.)

DELIVERY CHARGES

95-0006 01/11/1995 Charges for delivery of ready-mix concrete which must be constantly churned for delivery to a job site, are always includable in gross receipts that are subject to Retailers' Occupation Tax. (This is a GIL.)

95-0033 01/19/1995 Whether shipping and handling or delivery charges may be deducted by a retailer in determining the retailer's Retailers' Occupation Tax liability depends on whether the shipping and handling or delivery charges are included in the selling price of the property or are contracted for separately by the purchaser and the retailer. (This is a GIL.)

95-0044 01/23/1995 To the extent that shipping and handling charges constitute a portion of the sale price of the merchandise, they are includable in gross receipts and are subject to Retailers' Occupation Tax. Shipping charges may be excluded from gross receipts and not subject to Retailers' Occupation Tax where the seller and buyer agree upon the charges separately from the selling price of the merchandise. The best evidence that shipping charges were agreed to separately and apart from the selling price, is a separate and distinct contract for shipping. (This is a GIL.)

95-0092 02/28/1995 If a delivery charge is not capable of a separate agreement between a seller and a buyer because the buyer does not have the option of picking up the products which it has purchased, then the delivery charge is subject to Retailers' Occupation Tax because the charge is a cost of doing business. Without this option, a buyer must deliver the products to its seller and the delivery expense is an element of cost which is not deductible when computing its Retailers' Occupation Tax liability. (This is a GIL.)

95-0101 02/28/1995 Whether shipping and handling or delivery charges are subject to Retailers' Occupation Tax depends on whether the shipping and handling or delivery charges are included in the selling price of the property or are contracted for separately by the purchaser and the retailer. (This is a GIL.)

ENTERPRISE ZONES

95-0129 03/13/1995 Building materials purchased for physical

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\$1.25 incorporation into real estate located in an Enterprise Zone are exempt from Retailers' Occupation Tax. In order to claim the exemption for building materials, a contractor or other purchaser must purchase the materials from a retailer located in the municipality or unincorporated area of the county which has established the enterprise zone into which the materials will be incorporated. (This is a GIL.)

95-0153 \$1.00 03/29/1995 Section 130.1951 of the Department's regulations explains the various sales and Use Tax exemptions allowed for businesses in an enterprise zone. (This is a GIL.)

FARM MACHINERY AND EQUIPMENT

95-0042 \$1.00 01/23/1995 Steel tanks for the storage of gasoline or diesel fuel do not qualify for the Farm Machinery and Equipment exemption. (This is a GIL.)

95-0110 \$1.00 03/03/1995 Farm machinery and equipment that is used primarily (over 50% of the time) in production agriculture may qualify for exemption from Retailers' Occupation Tax and Use Tax. (This is a GIL.)

95-0116 \$1.00 03/07/1995 Farm machinery does not include improvements to real estate, such as barns. (This is a GIL.)

95-0128 \$1.25 03/13/1995 The Retailers' Occupation Tax does not apply to sales of machinery and equipment used or leased for use primarily in production agriculture. Grain storage bins do not themselves qualify for the Farm Machinery and Equipment Exemption since storage facilities are not exempt from the Retailers' Occupation Tax as they are considered to be tangible personal property. (This is a GIL.)

95-0150 \$1.25 03/29/1995 ATV's do not qualify for the Farm Machinery and Equipment exemption because 1.) ATV's are considered primarily recreational, and 2.) when used on a farm, ATV's are generally used as farm transport, which does not constitute production agriculture. (This is a GIL.)

FOOD

95-0039 \$1.25 01/23/1995 The sale of vitamins, herbal supplements, and protein drinks is subject to the low rate of tax assuming that they are purchased for consumption off the premises where purchased. (This is a GIL.)

95-0121 03/08/1995 When a dormitory sells food and beverage (or other

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\$1.50 items of tangible personal property) to its residents, it acts as a retailer and incurs a Retailers' Occupation Tax liability. Such sales are subject to the high rate of tax since the food is prepared for immediate consumption. (This is a GIL.)

FOOD, DRUGS & MEDICAL APPLIANCES

95-0063 \$2.50 02/06/1995 This letter responds to questions about the rate of tax for various medical products. (This is a GIL.)

95-0081 \$1.25 02/27/1995 This letter discusses taxation of sales of food from vending machines. (This is a GIL.)

GOVERNMENTAL BODIES

95-0031 \$1.00 01/18/1995 Sales made to a governmental body are exempt from Retailers' Occupation Tax. In order to make a tax exempt purchase, the governmental body must have an active exemption identification number issued by the Department. However, retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number. (This is a GIL.)

GRAPHIC ARTS

95-0011 \$1.25 01/13/1995 Computers qualify for the graphic arts machinery and equipment exemption only when they are used to control an engraving system which produces printing cylinders or to control digital typesetting equipment. Use of computers to store data or generate text or graphics does not qualify for the exemption. Purchasers must certify the equipment they are purchasing will be used for graphic arts production. (This is a GIL.)

95-0022 \$1.00 01/17/1995 A printing plate that is capable of sustained use, such as for 100,000 copies, would qualify for the Graphic Arts Machinery and Equipment Exemption. (This is a GIL.)

95-0052 \$1.25 01/27/1995 The Graphic Arts Machinery and Equipment Exemption extends to machinery and equipment that is used primarily in graphic arts production. "Graphic Arts Production" means printing by one or more of the common processes or graphic arts production services as those processes and services are defined in Major Group 27 of the U.S. Standard Industrial Classification Manual. Photocopying machines and laser printers do not qualify for the exemption. (This is a GIL.)

GROSS RECEIPTS

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95-0003 01/11/1995 Sales made to customers paying with food stamps are not taxable, since they are considered sales to a governmental unit. However, if part of the sale was paid for by a coupon for which the retailer received reimbursement, the value of the coupon would be subject to tax. That portion of the selling price that is paid for by food stamps is not subject to tax. (This is a GIL.)

95-0013 01/13/1995 The Cigarette tax charged to the retailer by the distributor becomes part of the retailer's selling price and cannot be deducted from the retailer's gross receipts when computing Retailers' Occupation Tax. This tax is considered to be a cost of doing business and a retailer's costs of doing business are never deductible from gross receipts. (This is a GIL.)

95-0015 01/13/1995 The sale of satellite television programming services to persons with satellite dishes is not a sale of tangible personal property. As a result, Retailers' Occupation Tax and Use Tax do not apply to the gross receipts on these sales because they are not sales of tangible personal property. (This is a GIL.)

95-0016 01/17/1995 This letter discusses the tax obligations of servicemen who perform work on underground diesel tanks. (This is a GIL.)

95-0024 01/17/1995 When an Illinois Retailer sells cellular telephones to a customer for a particular dollar amount, it has made a sale subject to the Retailers' Occupation Tax and must pay Retailers' Occupation Tax to the Department based upon its gross receipts, or actual amount received, from the sale of cellular telephones. (This is a GIL.)

95-0035 01/23/1995 The sale of cellular equipment is subject to Retailers' Occupation Tax based upon the gross receipts. However, when giving away cellular equipment free of charge, the donor incurs Use Tax on his cost price of the equipment. (This is a GIL.)

95-0040 01/23/1995 Prepayments do not constitute taxable gross receipts until delivery of the merchandise is actually made to the customer or until the merchandise is specifically identified to the sales contract. (This is a GIL.)

95-0049 01/24/1995 It has been the Department's longstanding position that cash amounts given to a purchaser (i.e., a manufacturer rebate), which the purchaser then uses to purchase a vehicle, must be included in gross receipts for tax purposes. A

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manufacturer's rebate' does not change the amount of gross receipts received by an automobile dealer. (This is a GIL.)

95-0069 02/10/1995 The issue of whether a retailer incurs Retailers' Occupation Tax liability in respect to a discount coupon depends on whether the retailer is being reimbursed for all or a part of the amount represented by the coupon. (This is a GIL.)

95-0094 02/28/1995 Mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer are not exempt from Retailers' Occupation Tax when the retailer retains and uses the entire service charge to pay employee wages. (This is a GIL.)

95-0106 03/01/1995 The sale of cellular phones is subject to Retailers' Occupation Tax based upon the gross receipts. (This is a GIL.)

95-0137 03/14/1995 The sale of cellular phones is subject to Retailers' Occupation Tax based upon the gross receipts. (This is a GIL.)

HOTEL OPERATORS' TAX

95-0117 03/07/1995 The Hotel Operators' Occupation Tax is a tax imposed upon persons engaged in the business of renting, leasing or letting rooms in a hotel. Hotel operators renting rooms to organizations which are exclusively charitable, religious or educational organizations as well as governmental units (State, Federal, local) are not exempt from paying the tax on room rentals to such entities. The only exemptions available to hotel operators are for rentals to permanent residents and to certain diplomatic personnel. (This is a GIL.)

95-0142 03/15/1995 The Hotel Operators' Occupation Tax Act does not include any provision for the exemption of exclusively charitable, religious, or educational organizations. (This is a GIL.)

INTERSTATE COMMERCE

95-0043 01/23/1995 Retailers' Occupation Tax does not apply to gross receipts from sales in which the seller is obligated, under the terms of his agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that such delivery is actually made. (This is a GIL.)

95-0088 02/27/1995 The interstate commerce exemption is available under the provisions of 86 Ill. Adm. Code 130.605. If the purchaser or the

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purchaser's representative take delivery in Illinois, the exemption is not available.

95-0157 03/30/1995 Retailers' Occupation Tax does not apply where the seller ships goods by carrier or by mail, according to the terms of the agreement with the purchaser, and the seller delivers the goods from a point within Illinois to a point outside Illinois and the goods are not to be returned to Illinois. Such sales are considered to be sales in interstate commerce and are exempt from Retailers' Occupation Tax. (This is a GIL.)

INVESTED CAPITAL TAX

95-0057 02/01/1995 This letter addresses an issue concerning the computation of the Invested Capital Tax base. (This is a GIL.)

95-0109 03/03/1995 This letter addresses an issue concerning the computation of the Invested Capital Tax base. (This is a GIL.)

LEASING

95-0071 02/14/1995 A person who is engaged in the business of leasing or renting motor vehicles to others and who, in connection with such business sells any used motor vehicle to a purchaser for his use and not for the purpose of resale, is a retailer engaged in the business of selling tangible personal property at retail. Therefore, Retailers' Occupation Tax will be incurred on the gross receipts from such sale. (This is a GIL.)

LOCAL TAXES

95-0001 01/04/1995 A municipality cannot collect, administer, or enforce a Home Rule Retailers' Occupation Tax or Service Occupation Tax. These are duties that the Department of Revenue performs when a home rule municipality imposes the taxes authorized by statute. (This is a GIL.)

95-0025 01/17/1995 In determining the applicability of a local tax, the location at which the purchase order is accepted determines the proper tax rate. (This is a GIL.)

95-0045 01/23/1995 Local taxes are incurred when selling occurs within a jurisdiction imposing a local tax. The location where the purchase order is accepted controls. If the purchase order is accepted outside Illinois, the purchaser must remit Use Tax at the basic state rate. One exception to this would be the Chicago Sales and Transaction Taxes to which some items may be subject in addition to basic Illinois Use Tax. (This is a GIL.)

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95-0120 03/08/1995 Local taxes are incurred when selling occurs within a jurisdiction imposing a local tax. Selling is deemed to occur where the purchase order is accepted by the seller. As such, it is the rate of tax imposed by a jurisdiction at that location that determines the local taxes. (This is a GIL.)

95-0134 03/14/1995 This letter answers a number of questions concerning the applicability of the Home Rule Municipal Retailers' Occupation Tax to certain transactions. (This is a GIL.)

MANUFACTURER'S PURCHASE CREDIT

95-0125 03/10/1995 Manufacturer's Purchase Credit is earned when a manufacturer makes an installment payment for qualifying manufacturing machinery and equipment to the seller of that machinery or equipment, and the amount of the credit that is earned at that time is based upon the amount of the installment payment paid to the seller of that machinery or equipment. (This is a GIL.)

MANUFACTURING MACHINERY AND EQUIPMENT

95-0007 01/13/1995 Diesel fuel used to power a semi tractor does not qualify for the Manufacturing Machinery and Equipment exemption. While the fuel may be essential to the manufacturing process, this factor alone does not qualify it for the exemption. Rather, the diesel fuel is a nonexempt consumable supply. (This is a GIL.)

95-0067 02/10/1995 Liquid nitrogen, hydrogen gas, and flux remover used in a welding or brazing process are consumable supplies and do not qualify for the Manufacturing Machinery and Equipment Exemption. (This is a GIL.)

95-0084 02/27/1995 The production or processing of food has been determined to be a manufacturing process. The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. Post-production storage facilities maintained at a specific temperature, which are required in order to preserve a manufactured product, qualify for the manufacturing machinery & equipment exemption. (This is a GIL.)

95-0096 02/28/1995 The heating of material in preparation for use in the manufacturing process is a step in the manufacturing process. Therefore, the Manufacturing Machinery and Equipment exemption is available for equipment which accomplishes this. (This is a GIL.)

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95-0107 03/02/1995 The Manufacturing Machinery and Equipment exemption is available for computers used primarily in operating exempt machinery and equipment in a computer-assisted design, computer-assisted manufacturing (CAD/CAM) system. (This is a GIL.)

95-0155 03/29/1995 Gases used in manufacturing do not qualify for the Manufacturing Machinery & Equipment exemption. (This is a GIL.)

MEDICAL APPLIANCES

95-0028 01/18/1995 A refill kit that is used to administer drugs by refilling a drug pump does not directly substitute for a malfunctioning part of the human body nor does it act as a corrective appliance like a hearing aid or eyeglasses. Drug administration systems do not qualify as medical appliances that are subject to the low rate of tax. (This is a GIL.)

95-0032 01/18/1995 Enteral nutrition pumps, enteral nutrition bag and containers (when used as part of an enteral administration kit whose primary purpose is a direct substitution for a malfunctioning part of the body), and gastrostomy tubes constitute medical appliances taxable at the low rate of tax. They are items which directly substitute for a malfunctioning part of the body. However, laparoscopic gastrostomy kits do not qualify for the low rate of tax as medical appliances because the primary purpose of the kits is for the surgical placement of an enteral feeding tube into the stomach rather than a direct substitute for a malfunctioning part of the body. (This is a GIL.)

95-0059 02/02/1995 This letter applies the exemption related to medical appliances to a list of items.

95-0064 02/07/1995 Syringe pumps which are used to administer insulin in treating diabetes in human beings qualify for the low rate of tax. Phototherapy units which are used to treat neonatal jaundice also qualify for the low rate of tax because they directly substitute for a malfunctioning part of the body, the liver's ability to reduce the bilirubin concentration. (This is a GIL.)

95-0076 02/21/1995 The definition of a medical appliance includes only those items which are intended by the manufacturer for use in directly substituting for a malfunctioning part of the body. Turn sheets do not constitute medical appliances because they are not items which are used as a direct substitute for a malfunctioning part of the body but instead are used to assist the caretaker in moving the patient. Therefore, they do not qualify for the low rate. (This is a GIL.)

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95-0077 02/21/1995 Products which are used to perform endoscopic surgery (make incisions, provide portals through which other instruments pass, and which otherwise support the endoscopic surgery), as well as products used to apply materials utilized in wound closure, such as instruments which apply internal or external clips, staples or suture materials, are taxable at the high rate of tax. These items are surgical instruments, which are specifically excluded from the definition of "medical appliance." These instruments are not intended by the manufacturer to directly substitute for a malfunctioning part of the human body. On the other hand, wound closure materials, such as surgical staples, clips or suture materials, directly substitute for skin, muscle tissue or other type of connective tissue, and therefore do directly substitute for a malfunctioning part of the human body. As a result, these items are taxable at the low rate of tax. (This is a GIL.)

95-0097 02/27/1995 Orthodontics include braces, ligature wire, retainers, arch bars, coils and hooks which are sold to orthodontists and which are incorporated into corrective medical appliances. These items would qualify for the low rate of tax in Illinois. (This is a GIL.)

MISCELLANEOUS

95-0012 01/13/1995 Retailers who engage in selling on their premises and also lease those premises to others who engage in selling upon those premises, are required to file returns with the Department for all sellers at the premises. A lessee may file his own sales tax returns if he operates under his own trade name and discloses a separate identity from the lessor to the general public. Otherwise, the lessors should account for the lessee's tax liability. If the lessor is required to file returns and allows the lessee to remit his own returns, the Department reserves the right to proceed against either the lessor or the lessee, or both, in the event that the tax liability is not properly discharged. (This is a GIL.)

95-0020 01/17/1995 This letter responds to an inquiry about Private Letter Rulings and General Information Letters issued by the Department and the charges for copies of those letters. (This is a GIL.)

95-0029 01/18/1995 The Department recommends that blanket Certificates of Resale be updated periodically, and no less frequently than every three years. In the case of resale numbers, the Department issues resale numbers for three year periods. Tax exemption identification numbers are issued to exclusively charitable,

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religious and educational organizations for periods of five years and must be renewed prior to the expiration of the five year period. (This is a GIL.)

95-0091
\$1.00

02/28/1995 In order to claim the foreign commerce exemption, a seller should maintain copies of the shipping documents as evidence that the seller delivered the goods directly to the international freight forwarder for shipment outside the United States, not to be returned to a point with Illinois. This documentation can be a copy of the waybill or bill of lading if shipment to the freight forwarder is made by common carrier which shows that the seller was the shipper and that the delivery was actually made to a point outside of Illinois. (This is a GIL.)

95-0104
\$1.25

03/01/1995 The Department's responsibility is to administer the tax laws of the State of Illinois, not to assist a publishing company in editing or proofreading a publication for planning effective legal ways to reduce and avoid taxes on behalf of businesses. (This is a GIL.)

95-0105
\$1.50

03/01/1995 This letter answers questions about sales tax on freight charges, updating requirements for resale certificates, and tax on service and labor. (This is a GIL.)

95-0111
\$1.25

03/03/1995 This letter responds to a request to inspect completed Use Tax and Vehicle Use Tax returns. Due to confidentiality provisions, such inspection is not allowed except for official purposes. (This is a GIL.)

95-0118
\$1.75

03/07/1995 Pursuant to 86 Ill. Adm. Code 130.1960(c), Retailers' Occupation Tax becomes due upon assignment of accounts receivable to a third party, with credit allowed for any tax already remitted to the Department based on the receipts from the sale of the tangible personal property. (This is a GIL.)

MOTOR FUEL TAX

95-0023
\$1.25

01/17/1995 Section 6 of the Motor Fuel Tax Law provides that a distributor who sells or distributes any motor fuel...shall collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such motor fuel sold and distributed". However, that Section also provides that a distributor may make tax-free sales of motor fuel "when the sale is made to a person holding a valid unrevoked license as a distributor, by making a specific notation thereof on invoices or sales slip covering each sale". Therefore, an Illinois automobile dealer is able to make tax-free purchases of motor fuel from an Illinois distributor if the dealer applies for and receives a

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distributor's license under the Law. If, however, the distributor is not registered with the State of Illinois, the dealer would have to pay the tax directly to the Department. (This is a GIL.)

95-0099
\$1.25

02/28/1995 Pursuant to the Motor Fuel Tax regulations, records may be kept on microfilm, microfiche, or other computerized or condensed record storage systems. With claims for refund, reproductions of invoices may be submitted in lieu of originals provided they are legible. However, the Department may require original invoices to verify purchases. (This is a GIL.)

95-0115
\$1.00

03/07/1995 The fuel tax exemptions provided at 86 Ill. Adm. Code 500.280 and 500.285 are not available to transportation service contractors.

95-0148
\$1.00

03/28/1995 Section 6a of the Motor Fuel Tax Law (35 ILCS 505/6a) specifically requires a supplier to pay tax on fuel which it uses, and then to apply for a credit for taxes paid on fuel which is used in an exempt manner.

95-0156
\$1.25

03/29/1995 This letter discusses registration requirements for the Gas Revenue Tax, and licensing requirements for the Motor Fuel Tax. (This is a GIL.)

MOTOR VEHICLES

95-0131
\$1.00

03/14/1995 Both new and used automobiles are types of tangible personal property that are titled or registered with an agency of this State's government and are specifically excluded from Home Rule Municipal Retailers' Occupation Tax. (This is a GIL.)

NEWSPRINT & INK

95-0027
\$1.25

01/17/1995 The sale of looseleaf services initially sold with binders and updated by the issuance of periodic replacement pages which meet the terms of Woody's, are not subject to tax even if the charge for the updates is not separately stated from the charge for the binders. (This is a GIL.)

NEXUS

95-0002
\$1.25

01/10/1995 This letter describes the types of activities, as explained in Section 150.201(i) and clarified by the Quill decision, in which an out-of-state seller must engage before Illinois can require him to register and collect the Use Tax on his Illinois sales. (This is a GIL.)

95-0004

01/11/1995 The physical presence of an agent or other

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- \$1.25 representative of a company in Illinois may subject the company to Illinois Use Tax collection responsibilities. (This is a GIL.)
- 95-0053 01/27/1995 An "Illinois Retailer" is one who either accepts purchase orders in the State of Illinois or maintains an inventory in Illinois and fills Illinois orders from that inventory. The Illinois Retailer is liable for Retailers' Occupation Tax on gross receipts of sales and must collect the corresponding Use Tax incurred by purchasers. (This is a GIL.)
- 95-0056 01/30/1995 This letter discusses the circumstances involving an out-of-State retailer, under the principles found in the recent Quill decision, who will be required to register and collect and remit Use Tax on his Illinois sales.
- 95-0078 02/22/1995 Out-of-State seller which accepts purchase orders outside Illinois and which fills those orders from an inventory located outside Illinois incurs no Retailers' Occupation Tax liability on those sales. However, that seller is obligated to collect and remit Illinois Use Tax by virtue of the presence of its representatives in Illinois.
- 95-0079 02/22/1995 The United States Supreme Court in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992), set forth the current guidelines for determining what nexus requirements must be met before a person is properly subject to a state's tax laws. (This is a GIL.)
- 95-0089 02/28/1995 The Department is currently determining on a case-by-case basis whether an out-of-State person or entity has satisfied the nexus test established by the Supreme Court in Quill Corp. v. North Dakota, 112 S.Ct. 1904 (1992). (This is a GIL.)
- 95-0126 03/10/1995 Based on the Quill case, a "substantial nexus," which includes a "physical presence" in the state, but not a "substantial physical presence" in the state, is required before an out-of-state business can be expected to collect Use Tax. (This is a GIL.)
- 95-0143 03/15/1995 This letter discusses NEXUS and Service Use Tax collection requirements. (This is a GIL.)
- OCCASIONAL SALE
- 95-0138 03/14/1995 Persons who make isolated or occasional sales do not incur Retailers' Occupation Tax liability. (This is a GIL.)

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POLLUTION CONTROL FACILITIES

- 95-0019 01/17/1995 Chemicals may qualify for the pollution control facilities exemption as long as they are used as component parts of a system whose primary purpose is to prevent air and water pollution. (This is a GIL.)
- 95-0037 01/23/1995 Section 130.335(a) specifically provides that the Pollution Control Facilities Exemption "does not extend to fuel used in operating" any pollution control equipment. Therefore, the use of coal as fuel to operate pollution control equipment does not qualify for the exemption. (This is a GIL.)
- 95-0038 01/23/1995 Tarps used in the sand blasting process in order to prevent lead particles and other emissions from escaping a sealed area can qualify for the Pollution Control Facilities exemption if they are used primarily to reduce air pollution by preventing the spread of harmful lead and other contaminants. (This is a GIL.)
- 95-0054 01/27/1995 A baler which is used in a recycling operation is not exempt as a pollution control facility. It does not reduce, prevent, or eliminate air or water pollution or treat or dispose of potentially harmful pollutants. A baler, to the extent that it is used primarily to change trash into material with a different form or use, which material is sold at wholesale or retail or leased, may qualify for the manufacturing machinery and equipment exemption. (This is a GIL.)
- 95-0072 02/14/1995 The Xxxxx Wastewater Treatment System qualifies for the pollution control facilities exemption because the primary purpose of the Plant is for the reduction or elimination of pollutants. (This is a GIL.)
- 95-0075 02/21/1995 A waste water system, the primary purpose of which is to treat actual and potential water pollutants qualifies for the pollution control facilities exemption under the Retailers' Occupation Tax. The pollution control facilities exemption includes the materials and equipment necessary to construct and operate the pollution control facility as well as certain chemicals which function as a filtration system by removing pollutants from the waste water before it is discharged into the waste water treatment plant. (This is a GIL.)
- 95-0082 02/27/1995 The longstanding position of the Department has been that equipment which confers an economic or commercial benefit to the user is not intended primarily for pollution control purposes. The equipment of a waste tire disposal facility does not qualify for the pollution control facilities exemption when the primary purpose

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of the facility is for the economic benefit or monetary gain for the user from the use of the equipment of the facility. (This is a GIL.)

95-0093
\$1.00

02/28/1995 The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property." (This is a GIL.)

95-0122
\$1.50

03/08/1995 This letter discusses the pollution control facilities exemption and claims for credit. (This is a GIL.)

95-0136
\$1.00

03/14/1995 The upgrading of underground storage tanks does not qualify for the pollution control facilities exemption because the primary purpose of the upgrade is for the economic benefit of the user rather than pollution control. (This is a GIL.)

95-0145
\$1.00

03/16/1995 Pollution control facilities include any system, method, construction, device, or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act, 415 ILCS 5/1 et seq., or for the primary purpose of treating, pretreating, modifying, or disposing of any potential solid, liquid, or gaseous pollutant which if released without such treatment, pretreatment, modification, or disposal might be harmful, detrimental, or offensive to human, plant, or animal life, or to property. (This is a GIL.)

95-0160
\$1.25

03/31/1995 Generally speaking, pollution control monitors do not qualify for the exemption, since the monitors do not act to reduce or eliminate air or water pollution. Rather, they merely provide readings about emissions levels which are then used by operators to adjust the equipment which actually works to reduce air or water pollution.

PRODUCTS OF PHOTOPROCESSING

95-0009
\$1.25

01/13/1995 A photographer may use the 10% rule only when selling the "products of photoprocessing" in conjunction with other services and a charge for the photoprocessing fee is not

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separately stated. If albums are included in a photography package, the price of the album(s) must be separately apportioned and taxed at 100%. (This is a GIL.)

PUBLIC UTILITY TAXES

95-0060
\$1.25

02/03/1995 The Gas Revenue Tax Act imposes a tax upon persons engaged in the business of distributing, supplying, furnishing, or selling gas to persons for use or consumption and not for resale. (This is a GIL.)

REPAIRS

95-0108
\$1.75

03/03/1995 This letter discusses the taxation of manufacturer's warranties and extended warranties or maintenance agreements. (This is a GIL.)

ROLLING STOCK EXEMPTION

95-0070
\$1.50

02/10/1995 Cargo containers used utilized by an interstate carrier for hire as rolling stock in interstate commerce may qualify for the rolling stock exemption. (This is a GIL.)

95-0102
\$1.00

02/28/1995 Motor oil and antifreeze used in qualifying vehicles are eligible for the rolling stock exemption since they remain in the vehicle long enough to be considered a component part. (This is a GIL.)

95-0135
\$1.00

03/14/1995 The Rolling Stock Exemption applies to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. (This is a GIL.)

SALE AT RETAIL

95-0026
\$1.50

01/17/1995 This letter describes the different types of retailers and describes which retailers are required to remit and collect Illinois Retailers' Occupation Tax and Use Tax. (This is a GIL.)

95-0048
\$1.25

01/23/1995 Sales of used mobile homes by a mobile home retailer registered to collect Illinois Use Tax, that are delivered into this State, are subject to tax. (This is a GIL.)

95-0085
\$1.75

02/27/1995 Providers of seminars incur Retailers' Occupation Tax on the gross receipts from the sale of standard course materials

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distributed to seminar participants. The course materials are subject to this tax whether the manuals are sold separately or as part of a total charge for the seminar. If the materials are sold as part of the total charge for the seminar, the provider of the seminar must allocate the amount for the selling price of the manuals and charge tax on that amount. (This is a GIL.)

95-0095 02/28/1995 A retailer that repairs used laser cartridges and is not contractually obligated to his customer to return that specific laser cartridge to that customer, but may replace that cartridge with a previously repaired cartridge from the retailer's inventory, is acting as a retailer and not as a serviceman. (This is a GIL.)

95-0123 03/08/1995 When the lessor of a vehicle bills the lessee of a vehicle or the lessee's insurance carrier, for the settlement following the theft or "total loss" of the vehicle, this is not a sale at retail. Therefore, there would be no Retailers' Occupation Tax or Use Tax liability. (This is a GIL.)

SALE FOR RESALE

95-0036 01/23/1995 The sale of containers, as defined in Section 130.2070(a), is not subject to Retailers' Occupation Tax when the purchasers of such containers transfer to customers the ownership of the containers together with what is contained in them. Purchasers buying containers for this type of use are considered to be making tax-free purchases for resale purposes. (This is a GIL.)

95-0047 01/23/1995 Sales of tangible personal property that goes into and forms a part of tangible personal property subsequently the subject of a sale at retail, are not taxable, provided proper documentation is obtained. (This is a GIL.)

95-0058 02/02/1995 Section 130.2100 explains that feed used for livestock that will be sold, or whose products will be sold, can be purchased for resale. (This is a GIL.)

95-0066 02/10/1995 A retailer is not liable for Retailers' Occupation Tax on the receipts from a sale when the retailer accepts a valid Certificate of Resale. (This is a GIL.)

95-0086 02/27/1995 Containers holding the tangible personal property sold, which are transferred as part of the products sold, may be purchased for resale under a Certificate of Resale. However, if the containers are used merely to provide a means of containing and transporting tangible personal property while in the process of being delivered to customers, they cannot be

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purchased for resale since the containers are being used. Therefore, a purchaser will owe Use Tax on the cost price of the containers purchased from its supplier. (This is a GIL.)

95-0152 03/29/1995 In order to document a resale transaction, a Certificate of Resale must be provided in order to make the transaction tax-free. A purchaser should register with the Department in order to provide a vendor with a Certificate of Resale so that no tax is incurred on the transaction. The NUC-1 Form can be used to register with the Department and to apply for a resale number. (This is a GIL.)

95-0159 03/31/1995 If a retailer properly documents a sale for resale with a valid Certificate of Resale, the retailer is not required to determine if the purchaser actually resells the items or instead uses or consumes them. (This is a GIL.)

SALE OF SERVICE

95-0010 01/13/1995 A company is not entitled to a credit against its Service Occupation Tax liability in Illinois for the use tax paid in another state on its products. Illinois sales tax laws do not allow Use Tax credits to be taken against Service Occupation Tax liabilities. (This is a GIL.)

95-0062 02/06/1995 This letter answers questions regarding taxation of various services provided by a computer hardware business. (This is a GIL.)

95-0119 03/08/1995 Sellers of personalized business calling cards, letterheads, envelopes, labels, name plates, badges, medallions and the like do not incur Retailers' Occupation Tax liability on their receipts from such sales because they are engaged in a service occupation in producing or procuring custom-ordered items that have no commercial value to others. (This is a GIL.)

95-0158 03/30/1995 This letter discusses several questions concerning the Service Occupation Tax including the exemptions for manufacturing machinery & equipment and the transfer of stock or standard parts in the repair of exempt manufacturing machinery. (This is a GIL.)

TAX INCREMENT FINANCING

95-0130 03/13/1995 The Department has many responsibilities with respect to Tax Increment Financing districts. These include distributing monies to local municipalities, reviewing ordinances and redevelopment project areas and plans and receiving information

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from the municipalities as required by statute. The Department does not have the authority to require specific expenditures of funds, nor to approve specific expenditures of funds. (This is a GIL.)

TAX RATE

95-0041 01/23/1995 The general rule imposed by section 130.101 is that the rate in effect on the date of delivery is the appropriate rate of taxation. (This is a GIL.)

TELECOMMUNICATIONS EXCISE TAX

95-0014 01/13/1995 This letter discusses the basic guidelines of taxability concerning the Telecommunications Excise Tax. (This is a GIL.)

95-0103 03/01/1995 Amtrak is exempt from the Telecommunications Excise Tax, due to its recognition, for purposes of that Act, as part of the Federal government.

95-0112 03/06/1995 When hotels provide telephone and facsimile services to guests, they are subject to the Telecommunications Excise Tax based upon the gross receipts of such services. (This is a GIL.)

95-0113 03/06/1995 The Department administers the Illinois Telecommunications Excise Tax but does not administer the local Telecommunications Excise Tax authorized under the Illinois Municipal Code. Cellular phones and beepers are subject to the telecommunications excise tax. The leasing of cellular phones or beepers is subject to telecommunications excise tax unless a specific charge is made for these items which is disaggregated and separately stated from the basic charge for service. If this is the case, the leasing charge can be excluded from gross receipts for the purpose of calculating the Telecommunications Excise Tax. (This is a GIL.)

95-0124 03/10/1995 Registered resellers of telecommunications are not required to file monthly Telecommunications Excise Tax returns, unless they become active retailers. (This is a GIL.)

TEMPORARY STORAGE

95-0055 01/28/1995 The temporary storage exemption is available for tangible personal property which is "acquired outside this State and which subsequent to being brought into this State and stored here temporarily ... is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is

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used solely outside this State." The proper documentation for the exemption is also explained in the letter. (This is a GIL.)

95-0073 02/16/1995 The temporary storage exemption is available for tangible personal property which is "acquired outside this State and which subsequent to being brought into this State and stored here temporarily ... is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State." The proper documentation for the temporary storage exemption is also explained in the letter. (This is a GIL.)

TRADE-INS

95-0098 02/28/1995 The phrase "like kind and character" includes, but is not limited to, the trading of any kind of motor vehicle on the purchase of any kind of motor vehicle, or the trading of any kind of farm implement on the purchase of any kind of farm implement, while not including a kind of item which, if sold at retail by that retailer, would be exempt from Retailers' Occupation Tax and Use Tax as an isolated or occasional sale. (This is a GIL.)

USE TAX

95-0021 01/17/1995 An aircraft purchased from someone other than a retailer may qualify as an occasional sale and would not be subject to Retailers' Occupation Tax, Use Tax, or Vehicle Use Tax liability. (This is a GIL.)

95-0030 01/18/1995 This letter describes the Department's Voluntary Disclosure Program.

95-0083 02/27/1995 This letter discusses the Use Tax consequences of awarding prizes in lawful raffles. (This is a GIL.)

95-0100 02/28/1995 Illinois Use Tax is not incurred on the purchase of natural gas from an out-of-state wellhead. However, the transmission of the gas to an Illinois location will be subject to the Gas Revenue Tax Act if such natural gas is transported by a utility company located in Illinois. (This is a GIL.)

95-0114 03/06/1995 A person who uses tangible personal property, which is acquired outside Illinois and caused to be brought into Illinois by a person who has already paid a tax to another state on the purchase price of the property, will be allowed a credit on their return in the amount of the tax properly paid and due in the other state. This credit includes state and county use tax which was properly due and paid in another state. (This is a GIL.)

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95-0127
\$1.00 03/13/1995 Out-of-State retailers who maintain a place of business in this State are required to register and to collect Illinois Use Tax. (This is a GIL.)

95-0132
\$1.25 03/14/1995 The use of or exercise or ownership over property in this state purchased anywhere at retail from a retailer is subject to the Use Tax. This applies to items purchased out of state and out of the country and brought back to Illinois as well as items purchased from mail order companies. If a tax has already been properly paid to another state or country on the purchase price of the item, a credit will be allowed in the amount of the tax. (This is a GIL.)

95-0146
\$1.25 03/16/1995 If a response to a Notice of Tax Liability does not specifically state that the taxpayer wishes to file a protest and request a hearing with the Department, the response does not qualify as a protest and request for hearing. (This is a GIL.)

95-0147
\$1.25 03/28/1995 A donor that has exercised no power or control over tangible personal property in Illinois has not made any taxable use of the property in Illinois. (This is a GIL.)

95-0149
\$1.25 03/29/1995 Illinois Use Tax is properly due whenever a purchaser takes physical possession of tangible personal property in Illinois. See Pressed Steel Car Co. v. Lyons, 1 Ill.2d 95 (1955). It is immaterial for tax purposes that the purchaser will immediately ship that tangible personal property out of the State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYNOTICE OF PUBLICATION ERROR

DEPARTMENT OF ALCOHOLISM AND SUBSTANCE ABUSE

Heading of the Part: Subacute Alcoholism and Substance Abuse Treatment Services

Code Citation: 77 Ill Adm Code 2090

Section Numbers: 2090.35 2090.90 2090.100 2090.105 2090.110

Date Proposed Amendment Published in the Illinois Register: February 10, 1995
19 Ill Reg 1156

Date Adopted Amendments Published in the Illinois Register: July 21, 1995
19 Ill Reg 10454

The rulemaking cited above concerns the procedures for providing Subacute Alcoholism and Substance Abuse Treatment Services. When the Adopted rule was published in the Illinois Register, 19 Ill Reg 10454, a publication error resulted in the stricken and underlined language not being shown. The correct version of the rulemaking is published for review by the public in this issue of the *Illinois Register*.

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF ALCOHOLISM AND SUBSTANCE ABUSE
SUBCHAPTER 9: MEDICAID PROGRAM STANDARDS

PART 2090

SUBACUTE ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT SERVICES

Section	Purpose
2090.10	Definitions
2090.20	Medicaid Enrollment
2090.30	General Requirements
2090.35	Reimbursable Services
2090.40	Utilization Review
2090.50	Recordkeeping
2090.60	Rate Setting
2090.70	Rate Appeals
2090.80	Application and Certification Process for Medicaid Providers
2090.90	Recertification and Inspections
2090.100	Inspections
2090.105	Sanctions for Non-Compliance/Audits
2090.110	

AUTHORITY: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

SOURCE: Adopted at 11 Ill. Reg. 2236, effective January 14, 1987; emergency amendments at 12 Ill. Reg. 11273, effective June 30, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 20611, effective November 26, 1988; emergency amendments at 15 Ill. Reg. 10222, effective June 25, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16662, effective November 1, 1991; amended at 16 Ill. Reg. 11807, effective July 14, 1992; amended at 18 Ill. Reg. 14223, effective September 2, 1994; amended at 19 Ill. Reg. 9411, effective July 1, 1995; amended at 19 Ill. Reg. 10454, effective July 1, 1995.

Section 2090.35 General Requirements

- a) A physician must review and approve the eligible client's diagnosis and treatment plan within fourteen days after initial service. Medical involvement and treatment plan development and review shall be consistent with 77 Ill. Adm. Code 2058.321 (Medical Responsibility), 2058.333 (Treatment Plans) and 2058.336 (Progress Notes). A Qualified Treatment Professional shall develop and review treatment plans according to the following review times:
 - 1) upon admission, transfer, and discharge;
 - 2) upon a change in the level of client functioning such as, but not limited to, when treatment plan objectives are met or new problems or needs are identified;
 - 3) at times specified for review in the individualized treatment plan;
 - 4) at the end of the estimated length of treatment and thereafter on the revised estimate of additional length of treatment; or

- 5) every ninety days, whichever comes first.
- b) The provider shall submit Medicaid claims on a timely basis. Claims shall be submitted as soon after the service date as is reasonable unless there is good cause for later submission. In any event, if a clean claim for a service provided within a State Fiscal Year is not submitted to the State on a timely enough basis to be paid within the State Fiscal Year lapse period, the provider must pursue reimbursement through the Court of Claims. Claims submitted later than 12 months from the date of service shall not be reimbursed by the State.

c) Information Collection Through DARTS.

1) The provider shall report, on a monthly basis, demographic and service system data using DASA's Automated Reporting and Tracking System (DARTS). The data collected shall be for the purpose of assessing individual client performance and for planning for future service development. Information to be reported by the provider, for each individual served by a program certified under Section 2090.90 of this Part, shall include but is not limited to the following:

- A) Name, date of birth, gender, race and national origin, family size, income level, marital status, residential address, employment, education and referral source.
 - B) Special population designation, such as Medicaid eligible clients, women with dependent children, intravenous drug users (IVDUs), DCFS clients, DMHDD clients, and criminal justice clients.
 - C) Drug/alcohol problem areas treated, characterized by drugs of use, frequency of use, and medical diagnosis.
 - D) Closing date information, such as the reason for discharging the client from the program.
- 2) The Department shall supply providers with DARTS software.
- 3) Disclosure of information contained within DARTS is governed by the specific provisions of federal regulations under Confidentiality of Alcohol and Drug Abuse Patient Records (42 CFR 2 (1987)).

(Source: Amended at 19 Ill. Reg. 10454 effective JUL 01 1995)

Section 2090.90 Application and Certification Process for Medicaid Providers

- a) Applications may be obtained by submitting a request in writing to:
 Illinois Department of Alcoholism and Substance Abuse
 James R. Thompson Center
 Quality Assurance Certification Unit
 100 West Randolph Street
 Suite 5-600
 Chicago, IL 60601
- b) The Department shall forward the application materials not later than 15 calendar days after receipt of the request.
- c) Applicants for new certification will be accepted from programs which have been licensed as required by Section 2090.30(a) for at least two

years (or whose parent organization has). Applicants shall demonstrate two years of experience in providing quality substance abuse services of the kind for which certification is being requested and for the type of population which will be served.

d) Applicants shall submit documentation of the following:

- 1) evidence of the need within the community for the type of services to be provided by the program for which certification is sought;
- 2) description of the organization that will be operating the program;
- 3) fiscal solvency of the organization;
- 4) description of the physical facilities to be utilized by the program;
- 5) description of the program and the clientele it serves;
- 6) projection of the total number of Medicaid clients to be served each month, the average length of stay anticipated, and the estimated average per person cost of treatment;
- 7) schedule of the specific dates, times and places services will be provided;
- 8) number and type of people served during the previous 2 years in the program for which certification is sought and a description of the people served (demographics, gender, drug of choice, Medicaid eligibility, income level, etc.);
- 9) name, address and professional qualifications of the program's Medical Director;
- 10) name and qualifications of each individual who will be staffing the program and a description of that individual's responsibilities with respect to the program;
- 11) copies of written referral agreements with other social service systems and primary medical care service systems within the applicant's area;
- 12) copies of referral agreements with other substance abuse treatment programs within the applicant's area implemented to assure availability of a full range of services as required in 77 Ill. Adm. Code 2058.354;
- 13) quality assurance standards and utilization review processes consistent with Section 2090.50 (documentation of the program's quality assurance system and utilization review policy as applied to the program's clinical standards) which have been used for the previous 2 years, with a copy of the 2 most recent utilization review reports; and
- 14) measurable outcome evaluation process used for the past 2 years and statistics on the program's patient outcomes.

e) ~~the applicant shall submit to the Department a completed application form a copy of the applicant's most recent utilization review report and the most recent annual audit and statistical and financial data as specified below:~~

e) ~~1) Applicants who receive funding from the Department shall be in submit evidence that they are in compliance with 77 Ill. Adm. Code 2030 Subparts D, G and Section 2030.710 and 2030.740. 2) Applicants who do not receive funding from DASA shall submit a copy copies of the two~~

previous years' annual ~~audit~~ audits according to the standards established in 77 Ill. Adm. Code 2030.620 and two copies of the statistical and financial data submitted in a format required by the Department.

f) ~~Applications which are missing more than two significant components or which have inadequate information shall be returned to the applicant with a statement specifying the missing or inadequate information. Completed applications may be resubmitted. Applications which are missing one or two less significant components shall may be held by the Department and the applicant notified in writing of the missing information. The applicant may submit only the missing components. The Department shall hold such incomplete applications no more than 30 calendar days.~~

e) ~~Applications which are complete shall be reviewed for compliance with the requirements of this Part:~~

- 1) ~~if the application is in compliance with this Part:~~
- 2) ~~the Department shall conduct an on-site inspection:~~
- 3) ~~if the application does not comply with the requirements of this Part, the Department shall notify the applicant in writing of the deficiencies. The applicant may correct the deficiencies and apply the new information to the Department. Should the applicant not satisfactorily respond to the deficiencies within 60 calendar days, the Department shall deny certification.~~
- g) ~~The Department shall conduct an on-site inspection pursuant to Section 2090.105.~~

h) ~~Based upon the inspection conducted under subsection (g) and on the information submitted by the applicant under subsection (d), the Department will certify the program if the Department determines that:~~

- 1) ~~the applicant has proven that an unmet need for the services exists in the community the program will serve;~~
- 2) ~~the organization operating the program is fiscally sound and responsible;~~
- 3) ~~the program management is experienced in business and in the delivery of substance abuse services;~~
- 4) ~~the program has sufficient written agreements with social, medical and other substance abuse service providers within its area to assure proper linkage of services to an individual;~~
- 5) ~~the program has experience with the Medicaid eligible population it intends to serve;~~
- 6) ~~the program has adequate physical facilities and adequate numbers of qualified alcoholism and other drug treatment professionals to provide the services;~~
- 7) ~~the program includes utilization review policies and procedures (with adequate clinical standards) and quality assurance policies and procedures as required by 77 Ill. Adm. Code 2090.50 and 2058.309; and~~
- 8) ~~the program has a measurable outcome evaluation process in place that provides measurable indicators of improvement by program participants.~~

i) ~~The Department shall notify the applicant in writing of its determination regarding certification following completion of the~~

on-site inspection.

- 1) If the Department certifies the program, it shall include the Department of Public Aid's (IDPA) Medicaid enrollment forms with the letter of certification. If the on-site inspection confirms compliance with the requirements of this Part, the Department shall include the IDPA enrollment forms with the letter of certification. The applicant shall submit the completed enrollment forms along with a copy of the letter of certification to IDPA. The effective date of initial certification by the Department shall be the effective date when providers may deliver services to Medicaid recipients which will be reimbursed by IDPA.
- 2) If the Department is not able to certify the program based on the criteria outlined in this Section, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the certification. The applicant has 60 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall notify the applicant under subsection (h)(1) above. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for certification. If certification is denied, the applicant may appeal the Department's decision and request a hearing pursuant to 77 Ill. Adm. Code 2000 (Rules of Practice and Procedure in Administrative Hearings). The on-site inspection does not confirm compliance with the requirements of this Part, the Department shall notify the applicant in writing of the deficiencies. The applicant may correct the deficiencies and supply the new information to the Department. Should the applicant not satisfactorily respond to the deficiencies within 60 calendar days, the Department shall deny certification.
- 3) Where certification has been denied, the applicant may appeal the Department's decision and request a hearing pursuant to 77 Ill. Adm. Code 2000.
- 4) Certification shall be effective on the date of approval by the Department and shall remain in effect for a period of 3 years, if the provider continues to be licensed as required by Section 2090.10(a) and subject to any sanctions levied under Section 2090.110. The month and day of Department approval shall be known as the program certification's anniversary date. The program may be recertified for an additional 3 year period pursuant to Section 2090.100. After the effective date of certification, the provider may deliver services to Medicaid recipients that will be reimbursable after the applicant completes the IDPA Medicaid enrollment procedure.
- 5) The provider shall notify the Department in writing within 30 days of any changes in policies or procedures required by this Part or described in any materials submitted as part of an application for certification.

(Source: Amended at 19 Ill. Reg. **10454** effective

JUL 01 1995

Section 2090.100 Recertification and inspections

- a) Any provider that wants to continue a program beyond the 3 year certification period shall apply for recertification at least 90 days prior to the anniversary date of the third year of certification. The Department may recertify Medicaid-enrolled providers annually and must recertify at least every three years.
- 1) Ninety (90) days prior to the anniversary date of certification the provider shall submit to the Department: A) A recertification application on forms specified by the Department; B) An applicant for recertification shall submit, in a format specified by the Department, a statement that the program provider continues to meet all requirements of this Part and continues to be licensed as required by Section 2090.10(a) including the appropriate state licensure for each enrolled treatment service category. This statement shall be signed by the Authorized Program Representative of the provider facility. If any of the information submitted under Section 2090.90 has changed since the original certification, the applicant shall resubmit that information in a corrected form.
- 2) Copies of the all utilization review (UR) reports since the date of last certification and of the current UR policies and procedures.
- 3) Results of the program's measured outcome evaluations since the date of last certification or recertification.
- 4) To be eligible for recertification, providers who receive funding from the Department shall be in compliance with 77 Ill. Adm. Code 2030 Subparts D, G, and Sections Section 2030.710 and 2030.740.
- 5) Providers who do not receive funding from the Department shall submit one copy of the all annual audit(s) during the previous certification period, according to the standards established in 77 Ill. Adm. Code 2030.620 (Audit Requirements), and two copies of statistical and financial data submitted on forms required by the Department.
- 6) The Department shall review the program and conduct the inspection required in Section 2090.105, and shall recertify the program if it complies with the requirements of the Alcoholism and Other Drug Abuse and Dependency Act and this Part.
- 7) If the Department is not able to recertify the program based on its review and inspection, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the recertification. The applicant has 30 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall recertify the program. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for recertification and

shall notify the applicant in writing, giving the reasons for the denial. The provider may appeal the Department's decision and request a hearing pursuant to 77 Ill. Adm. Code 2000 (Rules of Practice and Procedure in Administrative Hearings). Certification shall remain in effect pending the Department's final decision on recertification. When the denial of recertification is final, the provider shall arrange for transfer of all Medicaid clients of the program as appropriate.

b) Inspections

- 1) The Department shall conduct inspections of providers certified under this Part to enforce compliance with provisions of this Part.
- 2) The Department inspectors shall be granted access to all facilities and service areas, client records, and all other records required under this Part.

c) ~~The provider shall notify the Department in writing within 30 days of any changes in policies or procedures required in this Part.~~

(Source: Amended at 19 Ill. Reg. 10454, effective JUL 01 1995)

Section 2090.105 Inspections

- a) The Department shall conduct inspections of applicants for program certification or recertification and of certified programs to enforce compliance with this Part. Department inspections may be conducted as part of the certification/recertification application process, on a random basis to survey compliance with this Part, or in response to complaints, if the complaint sets forth charges that constitute grounds for sanction pursuant to Section 2090.110.

- b) Upon presentation of Department credentials, inspectors of the Department shall be permitted access to inspect all physical facilities and records of the program and to make inquiries of program staff and clients.

(Source: Added at 19 Ill. Reg. 10454, effective JUL 01 1995)

Section 2090.110 Sanctions for Non-Compliance/Audits

- a) Failure to comply with the requirements of this Part shall result in the provider being issued a written warning or having its certification suspended or terminated for the Illinois Medical Assistance Program.

- b) The Department shall issue a written warning to a certified provider who has failed to comply with Sections 2090.40(a)(1), (3) or (4), (b)(1), (3) or (4), (c)(1), (3) or (4), (d)(1), (3) or (4), (e)(1) or (3), (f)(1), (3) or (4), (g), (h), or 2090.50 or 2090.60.

- 1) Where a certified provider has been determined to have violated the provisions specified in subsection (b), the Department shall notify the provider in writing of the deficiencies.

- 2) The provider shall have a maximum of 60 calendar days from the date of the written notice to correct the cited deficiencies.

c) ~~The Department may also conduct post-payment audits based on volume of billings, complaints, identified deficiencies or non-compliance with this Part, or pursuant to a random selection process as necessary to monitor for compliance with this Part.~~

d) ~~The Department shall audit a statistically significant randomly selected sampling of client records at the audited program.~~

e) ~~The Department shall follow the recoupment formula approved by the Department of Public Aid, should the audit result in recoupment.~~

f) ~~Upon completion of the post-payment audit the Department shall submit written notification to the program regarding audit findings and amounts determined to be recoupable. The program shall respond to the notification within 15 days with supporting documentation regarding the recoupment amount. If such documentation proves that the recoupment amount is inaccurate, the amount shall be revised. The program may also request a 100% audit. The department may reduce future payments at a percentage per month or in a lump sum, or demand repayment in a lump sum.~~

g) ~~The Department and the Department of Public Aid shall jointly initiate administrative proceedings pursuant to 89 Ill. Adm. Code 140.16 ~~140.16~~ to suspend or terminate certification and eligibility to participate in the Illinois Medical Assistance Program where the provider:~~

- 1) Has failed to comply with Section 2090.40(a)(2), (b)(2), (c)(2), (d)(2), (e)(2) or (f)(2); ~~or~~
- 2) Has failed to comply with subsection (b)(2); ~~or~~
- 3) Does not have a valid license for an enrolled treatment service category issued by the appropriate licensing authority; ~~or~~
- 4) Meets any of the grounds for termination set forth in 89 Ill. Adm. Code 140.16.

h) ~~The Department shall immediately refer evidence of billing discrepancies or suspected improprieties to the Department of Public Aid for further action or may initiate post-payment audits.~~

(Source: Amended at 19 Ill. Reg. 10454, effective JUL 01 1995)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 18, 1995 through July 24, 1995, and have been scheduled for review by the Committee at its August 15, 1995 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
9/2/95	Department of Rehabilitation Services, Confidentiality of Information (89 Ill Adm Code 505)	4/21/95 19 Ill Reg 5940	8/15/95
9/2/95	Department of Rehabilitation Services, Therkelsen/Hansen College Loan Fund (89 Ill Adm Code 835)	4/21/95 19 Ill Reg 5952	8/15/95
9/3/95	Department of Conservation, Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Beaver and Woodchuck (Groundhog) Trapping (17 Ill Adm Code 570)	5/12/95 19 Ill Reg 6381	8/15/95
9/3/95	Department of Professional Regulation, Veterinary Medicine and Surgery Practice Act of 1994 (68 Ill Adm Code 1500)	6/2/95 19 Ill Reg 7296	8/15/95
9/3/95	Department of Children and Family Services, Relative Home Placement (89 Ill Adm Code 335)	4/28/95 19 Ill Reg 6035	8/15/95
9/3/95	Department of Revenue, Retailers' Occupation Tax (86 Ill Adm Code 130)	3/24/95 19 Ill Reg 4383	8/15/95

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